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RELATING TO THE

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Decided from the passing of the Statute of Monopolies to June 1875.

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N O T I C E .

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THE
ELECTRIC LIGHTING ACT, 1882,

THE
ACTS INCORPORATED THEREWITH,
THE
BOARD OF TRADE RULES,

TOGETHER WITH
NUMEROUS NOTES AND CASES.

BY

CLEMENT HIGGINS,
RECORDEE OF MIRKENHEAD,
M.A. CANTAB., FELLOW OF THE PHYSICAL SOCIETY OF LONDON, ETC.

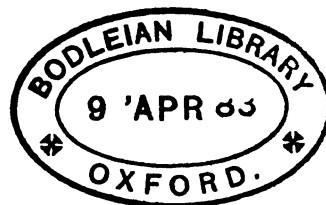
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P R E F A C E.

IN the present crude and incomplete state of the law relating to the industrial applications of Electricity, little more is possible than to bring together under one cover the Electric Lighting Act, 1882, the Board of Trade Rules, the Incorporated Acts and cases decided thereon, together with such explanatory notes as have occurred to the Authors after a careful study of the legal and technical aspects of the subject. It is hoped, however, that this will be of assistance to Local Authorities, Companies, and others, in applying for powers under, or in otherwise putting in force the provisions of, the Electric Lighting Act, 1882.

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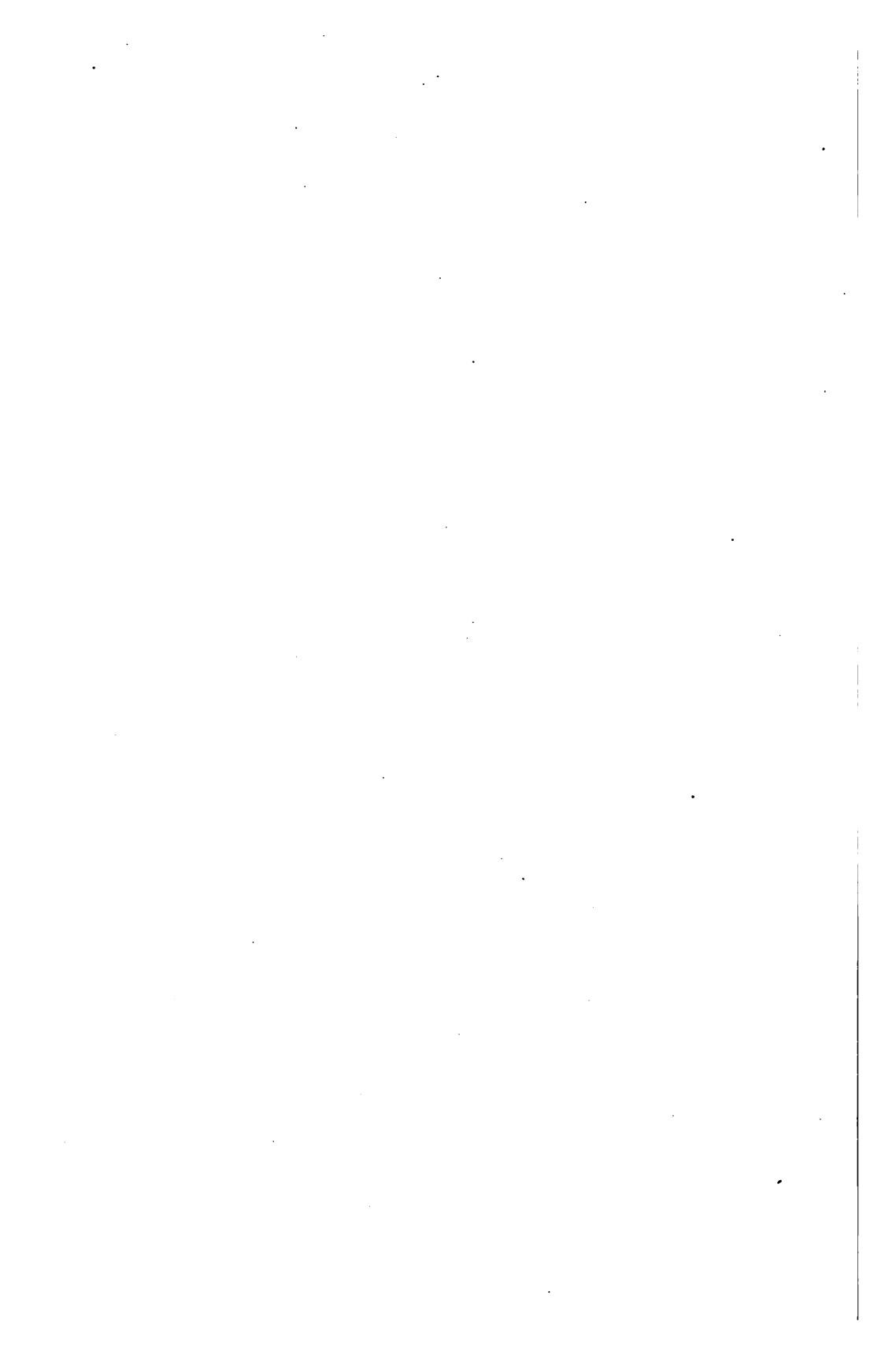


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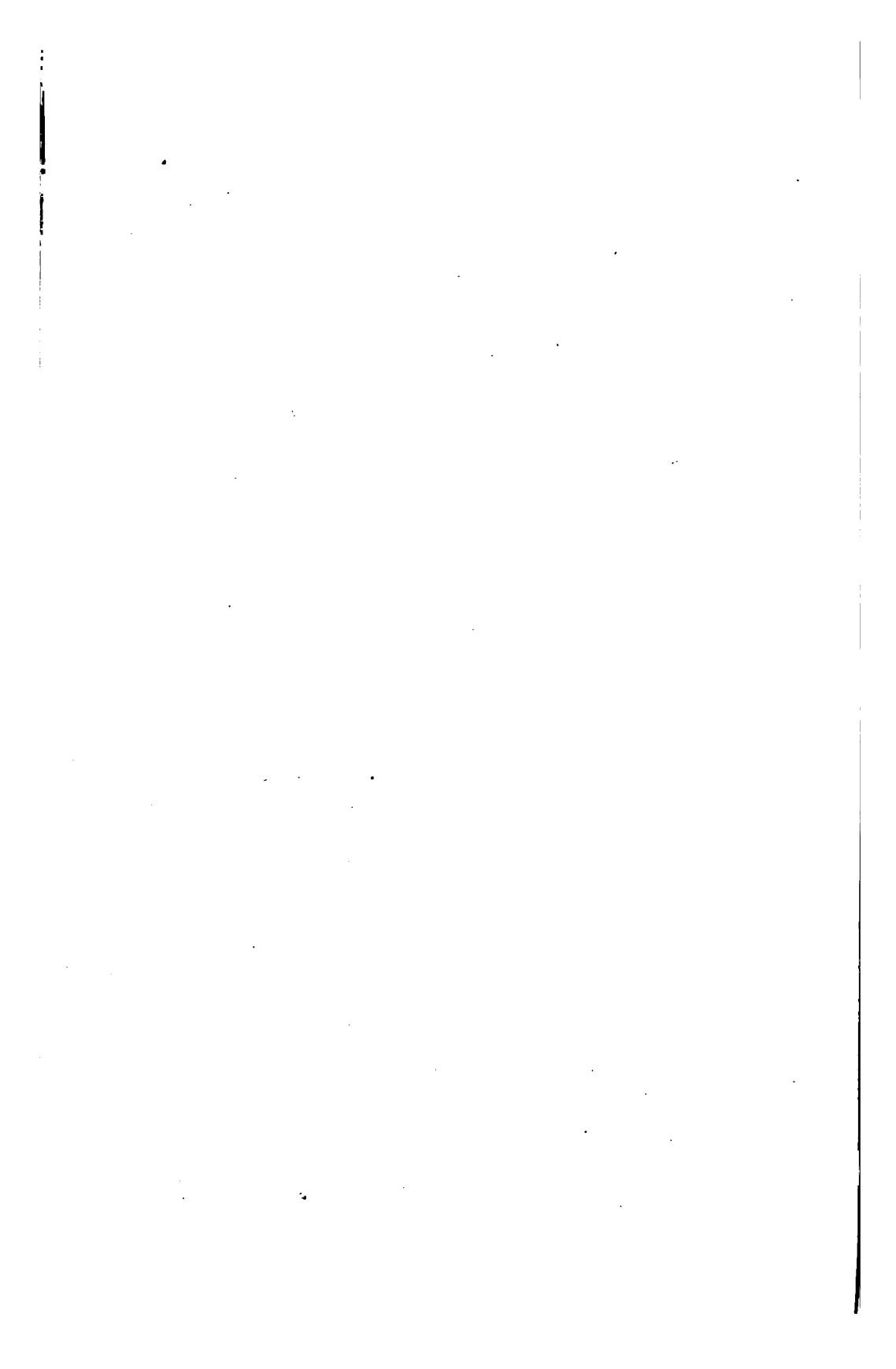


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THE ELECTRIC LIGHTING ACT, 1882.

An Act to facilitate and regulate the supply of Electricity for Lighting and other purposes in Great Britain and Ireland.

[18th August, 1882.]

Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

1. This Act may be cited for all purposes as the Short title. Electric Lighting Act, 1882.

2. The provisions of this Act shall apply to every local authority (a), company (b), or person who may by this Act (c) or any license or provisional order granted under this Act, or by any special Act to be hereafter passed (d), be authorised to supply electricity within any area (in this Act referred to as "the undertakers") and to every undertaking so authorised, except so far as may be expressly provided by any such special Act (e); and every such license, provisional order, and special Act, is in this Act included in the expression "license, order, or special Act."

(a) See schedule and notes thereon, p. 89-91.

S. 2.

(b) See sect. 32, the interpretation clause, p. 85.
(c) This section seems to contemplate that "the undertakers" may be authorized to supply electricity either, (1) by "this Act," (2) by license granted under the Act, (3) by provisional order granted under the Act, or (4) by special Act. It does not, however, appear that any "undertakers" are in point of fact authorized to supply electricity by the Act itself.

(d) It is important to observe that the provisions of the Electric Lighting Act apply only to "the undertakers" authorized to supply electricity by the Act itself, or by a license or provisional order granted under it, or by a special Act *to be hereafter passed*. Consequently the Act in no way interferes with the freedom of any person to make and use electricity on his own premises, and to supply it to others, so long as he does not commit any nuisance, or interfere with the rights of third parties. An injunction would be granted where wires are placed, without the consent of the owner of the soil, under a highway, to restrain their continuance there. (*Goodson v. Richardson*, L. R. 9 Ch. 221.) Neither do the provisions of the Act apply to, affect, or modify, any special Acts *passed prior to the 18th of August, 1882*, authorizing the supply of electricity. During the three years prior to May, 1882, seven such special Acts were, according to the evidence of Mr. Farrar (Report of Select Committee, 1882, p. 5), passed, granting to the local authorities of Blackpool, Liverpool, Over Darwen, Hull, Lancaster, Oldham, and Irvine Burgh, power to supply electricity, and to raise money for the purpose. These Acts are unaffected by the provisions of the Electric Lighting Act, 1882, as also are other prior special Acts, unless they themselves incorporate any subsequent general Act.

(e) The object of a general Act is to prevent the necessity of repeating in every special Act those general provisions which have been ascertained, after sufficient experience, to

be proper and necessary to be introduced into Acts authorizing undertakings of the same character, so that where any particular undertaking afterwards comes to be authorized the special Act may be introduced in a short form containing only such clauses as are suggested by the circumstances of the particular case. (*Metropolitan District Ry. Co. v. Sharp*, L. R. 5 App. Cas. 431.)

Special Acts to be hereafter passed will, therefore, as a rule, contain a section incorporating the general Act, and certain additions to, and amendments of, the general Act, necessitated by the peculiar circumstances of the case.

Where the special Act thus incorporates the general Act, but is inconsistent with it, the special Act prevails. (*Reg. v. Great Western Ry. Co.*, 22 L. J. Q.B. 65; *Atty-Gen. v. Great Eastern Ry. Co.*, L. R. 7 Ch. App. 475; *Mayor of Yarmouth v. Simmonds*, 47 L. J. Ch. 792; *Weld v. South Western Ry. Co.*, 33 L. J. Ch. 142; *London, Chatham, and Dover Ry. Co. v. Wandsworth Board of Works*, L. R. 8 C. P. 185; *Ex parte Sepulchre*, 33 L. J. Ch. 372.)

But the inconsistency must be clear and distinct, though it need not be in express terms. (*Weld v. South Western Ry. Co.*, 33 L. J. Ch. 142; *Metropolitan District Ry. Co. v. Sharp*, L. R. 5 App. Cas. 425; *Hill v. Hall*, 1 Ex. D. 411; *Middleton v. Crofts*, 2 Atkyns, 674.)

3. The Board of Trade may from time to time license any local authority as defined by this Act (b), or any company (c) or person, to supply electricity under this Act for any public or private purposes (d) within any area subject to the following provisions:

- (1.) The consent of every local authority having jurisdiction within the area or any part of the area within which a supply is licensed to be furnished shall be required to the application for a

Granting
of licenses
authorising
the
supply of
electricity.

s. 3.

license, which consent (*e*) such local authority is hereby authorised to give, with such conditions (if any) as, subject to the approval of the Board of Trade (*f*), the local authority may prescribe:

- (2.) A license shall be for any period not exceeding seven years, but may, at or after the expiration of such license, be renewed from time to time for a like period with such consent as above mentioned upon such terms and conditions as the Board of Trade may determine (*g*):
- (3.) "Public purposes" shall mean lighting any street or any place belonging to or subject to the control of the local authority, or any church or registered place of public worship, or any hall or building belonging to or subject to the control of any public authority, or any public theatre, but shall not include any other purpose to which electricity may be applied (*h*):
- (4.) "Private purposes" shall include any purposes whatever to which electricity may for the time being be applicable, not being public purposes, except the transmission of any telegram (*h*):
- (5.) Every local authority, company, or person, applying for a license shall publish notice of their application by public advertisement in such manner and including such particulars as the Board of Trade may from time to time direct or approve (*k*); and such license shall not be granted by the Board of Trade until after the expiration

of a period of three months from the date of the first publication of such advertisement, nor until opportunity has been given to all parties interested (*m*) to make representations or objections to the Board of Trade with reference to the application :

s. 3.

- (6.) No application for a license shall be made by any local authority except in pursuance of a resolution to be passed at a special meeting of the local authority, and such special meeting shall only be held after one month's previous notice of the same and of the purpose thereof has been given in the manner in which notices of meetings of such local authority are usually given :
- (7.) A license may, subject to the provisions of this Act, be granted to a local authority authorising them to supply electricity within any area although the same or some part thereof may not be included within their own district :
- (8.) The license may make such regulations as to the limits within which and the conditions under which a supply of electricity is to be compulsory or permissive, and for enforcing the performance by the licensees of their duties in relation to such supply, and for the revocation of the license where the licensees fail to perform such duties, and generally may contain such regulations and conditions as the Board of Trade may think expedient (*n*).
- (9.) Where in any area or part of an area in which any undertakers are authorised to supply electricity

S. 3.

under any license the undertakers are not themselves the local authority, the license may contain any provisions and restrictions for enabling the local authority within whose jurisdiction such area or part of an area may be to exercise any of the powers of the undertakers under this Act with respect to the breaking up of any street repairable by such local authority within such area or part of an area, and the alteration of the position of any pipes or wires being under such street, and not being the pipes or wires of the undertakers, on behalf and at the expense of the undertakers, and for limiting the powers and liabilities of the undertakers in relation thereto, which the Board of Trade may think expedient (o).

- (b) See sect. 31, p. 84, and schedule, p. 89.
- (c) See sect. 32, p. 85.
- (d) See note (h), p. 8.
- (e) The Board of Trade have made the following rules with respect to application for licenses and the consent of the local authority.

Rule I.—No application for a license or for the renewal of a license can be entertained unless proof of the consent of the local authority to such application is given to the Board of Trade.

Rule VII.—When the approval or consent of any local authority is required to any application for a license or order, such approval or consent must be given by a resolution passed at a special meeting of the local authority held after one month's previous notice of the same, and of the purpose thereof, has been given in the manner in which notices of meetings of such local authority are usually given,

and the fact that such a resolution was duly passed must be proved by furnishing a certificate signed by the secretary or clerk to such local authority embodying copies of the notices and of the resolution, and certifying that the notice was duly given and the resolution duly passed.

(f) The words "subject to the approval of the Board of Trade," seem only to authorize the Board of Trade to approve or reject the conditions prescribed by the local authority as a whole.

There seems to be no power to accept some and reject other of the conditions, or in any way to modify or amend any of them. This is as it should be, for the local authority will, in such cases, have given only a conditional consent, and to allow the Board of Trade to modify the condition, would be, in many instances, in effect, to transfer the consenting power from the local authority to the Board of Trade.

In the event of the Board of Trade disapproving of the conditions imposed by the local authority, the applicant would probably be referred back to the local authority, or his application for a license would be refused, and he would then have to commence *de novo*.

Where the area of supply happens to form part of two or more districts, it is feared considerable difficulties will have to be overcome in all cases of conditional consents, as such bodies as local authorities are, to say the least, extremely likely to disagree as to the conditions to be imposed. There will, moreover, probably be but few unconditional consents given, except where the local authority is itself the applicant for a license. The Board of Trade are, however, empowered by the 8th sub-sect. to introduce into the license such regulations and conditions as they think fit. The question here arises whether the Board of Trade can introduce into the license itself conditions at variance with the conditions upon which the consent has been given.

In cases where an applicant for a license has failed to

s. 3. obtain from a local authority its consent thereto a provisional order may still be applied for.

See sect. 4 and evidence of Mr. Farrar (Report of Select Committee, 1882, p. 31).

(g) On the application for the *renewal* of a license the consent of the local authority thereto must be first obtained.

The renewal is only to be granted upon such terms and conditions as the *Board of Trade may determine*. From this it would seem that the words "such consent" mean the unconditional consent of the local authority, or if the words also include this conditional consent, the words of this sub-section give a distinct appeal from such condition to the Board of Trade.

The local authority can, however, always guard themselves against the introduction of unnecessary or improper terms and conditions when themselves the applicant, and secure the introduction of necessary and proper terms and conditions when opposing a renewal, by securing a local inquiry under the provisions of Rule X. of the Board of Trade Rules.

(h) The supply of electricity for any purpose other than for lighting is a private purpose, even though supplied in a public place.

This may be of importance, as Rule III. (3) provides that the draft license must contain "a statement of the purposes for which a supply is to be given, viz., any or all of the public or private purposes specified in section 3 of the Act."

Under the 3rd sub-section it will be observed that lighting "any church or registered place of public worship, &c." is made a "public purpose," but it was pointed out by Mr. Farrar (Report of Select Committee, 1882, p. 31) that where a company had obtained a license for the supply of electricity for "private purposes" only, yet, notwithstanding the above provision, they would not be precluded from supplying churches, chapels, and public buildings, if they did so "*in loco* upon the spot, or if they could get at them without breaking up the public streets."

Dr. Siemens (Ib. p. 184) is of opinion that electric lighting can only be carried out with sufficient economy, as compared with gas, when supplied to both public and private purposes.

(k) The following is the manner in which the Board of Trade have directed notice of application for licenses to be published.

Rule IX.—Applicants for a license or provisional order must proceed as follows, *subject in the case of a license to the application having been previously entertained by the Board of Trade, vide Rule I.:*—

They shall publish notice by advertisement of their application, or in the case of a provisional order, of their intended application, and every such advertisement shall contain the following particulars:—

1. The objects of the application.
2. Address and description of applicants.
3. A general description of the nature of the proposed works.
4. A description of the proposed area of supply.
5. The names of the streets and other places in, over, or along which it is proposed to place any electric lines or other works.
6. A list of the streets not repairable by a local authority and of the railways and tramways (if any) which the applicants propose to take powers by the license or order to break up.
7. A list of the canals and navigable rivers which the undertakers will be empowered under the license or order to cross.
8. An office in London, and another office within the proposed area of supply, at which printed copies of the draft license or order when applied for, and of the license or order when made, can be obtained at a price of not more than one shilling each.

The advertisement is to be headed with a short title, descriptive of the undertaking (corresponding with that at the

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head of the memorial), and it must state that every local or other public authority, company, or person desirous of making any representation to the Board of Trade, or of bringing before them any objection respecting the application, may do so by letter addressed to the Board of Trade, marked on the outside of the cover enclosing it "Electric Lighting Act," within two months from the date of the newspaper containing the first advertisement.

The advertisement is to be inserted once at least in each of two successive weeks in one and the same newspaper, published and circulating in the proposed area of supply, or in such other newspaper as the Board of Trade may direct; and once at least in the London, Edinburgh, or Dublin Gazette, accordingly as the proposed area of supply is situate in England, Scotland, or Ireland.

(m) The words used in this section, "all parties interested," and those employed in the Board of Trade Rules, Rule X., which relates to local inquiries, viz. "any person *locally* interested," seem to shew that the persons authorized to make representations or objections to the Board of Trade need not necessarily be "*locally*" interested. From the evidence given by Mr. Farrar (Report of Select Committee, 1882, p. 31) it would seem that the intention of the framer of the Bill was to give the same kind of *locus standi* to parties before the Board of Trade who wish to oppose a license as they will have to oppose a provisional order before Parliament.

A local inquiry, however, will only be held by the Board of Trade where a person *locally* interested objects to the license, &c. This is provided by Board of Trade Rules No. 10, which is as follows:—

"In all cases of application for a license, renewal of license or provisional order, to which objection is made by any person locally interested, the Board of Trade will, if either the applicants or the objectors so desire, hold a local inquiry of which due notice will be given."

(n) See sect. 6, and notes thereto, p. 18. It may be of

importance to observe that the subject-matter of the regulations and conditions which the Board of Trade are empowered to introduce into a license or provisional order by the 6th section are therein specifically set out, but by sub-sect. 8 of this section the *license* may be granted subject to such regulations and conditions "as the Board of Trade may think expedient."

(o) The wording of this sub-section is, to say the least, curious. It is difficult to see how the introduction of "restrictions" in the license can "enable" the local authority to exercise any powers. What is meant probably is that the "provisions" introduced into the license are to "enable" the local authority, and the "restrictions" are to *dis*enable the undertakers.

It will be observed that this sub-section gives an absolute discretion to the Board of Trade to introduce into the license (when the undertakers are not the local authority), "any provisions and restrictions for enabling the local authority," and for "limiting the powers and liabilities of the undertakers" in relation to breaking up streets repairable by the local authority, and altering the position of pipes and wires (not belonging to undertakers) under such streets.

The manner in which this discretion will be used is probably foreshadowed by the evidence given before the Select Committee on Electric Lighting (see pp. 37, 44, 61, 83), where the opinion was very generally expressed that the power of breaking up the streets should be given only to the local authority who are responsible for their good order and condition. There is nothing to prevent a condition being introduced into the license or order that the local authority should contract with the undertakers (where they are not the local authority) to break up the streets where necessary for the work of the undertakers, and so retain complete control over them.

"The powers of the undertakers under this Act with respect to the breaking up of streets" are contained only in

S. 4. ~~E~~ the Acts incorporated by the 12th section. See that sect. and notes thereon as to the power to alter the position of pipes and wires under streets, and also the 15th section.

Granting
of provi-
sional
orders
authoris-
ing the
supply of
electricity.

4. The Board of Trade may, from time to time, by provisional order authorise any local authority (*b*), company (*c*), or person to supply electricity for any public or private purposes (*e*) within any area, without requiring such consents as are required to the granting a license under this Act (*f*), and for such period, whether limited or unlimited (*g*), as the Board of Trade may think proper, but in all other respects subject to the like provisions as in the last section contained with respect to licenses (*h*), and subject also to the following provisions:—

- (1.) No provisional order shall authorise the supply of electricity by any undertakers within the district of any local authority (not being themselves the undertakers), unless notice that such provisional order has been or is intended to be applied for has been given to such local authority by the applicants in such manner as the Board of Trade may direct or approve on or before the first day of July in the year in which such application is made: provided that in the case of any application made during the present year such notice shall be deemed to have been given in due time if the same is given within one month after the passing of this Act (*k*):
- (2.) The Board of Trade may submit to Parliament for confirmation any provisional order granted by it in pursuance of this Act, but any such order

shall be of no force unless and until it is confirmed by Act of Parliament:

- (3.) If, while the Bill confirming any such order is pending in either House of Parliament, a petition is presented against any order comprised therein, the Bill, so far as it relates to such order, may be referred to a Select Committee, and the petitioner shall be allowed to appear and oppose as in the case of private Bills:
- (4.) Any Act confirming any provisional order granted in pursuance of this Act may, on the application of the undertakers thereby authorised to supply electricity, be repealed, altered, or amended by any subsequent provisional order granted by the Board of Trade and confirmed by Parliament.

(b) See schedule, p. 89. Preference is given to the local authority on their application for a provisional order by the Board of Trade Rules No. 2, which provides that "When applications for provisional orders authorizing the supply of electricity within the district of any local authority are received by the Board of Trade from such local authority, and also from any other authority, company, or person, the Board of Trade will give a preference to the application of the local authority of the district in every case where, in the opinion of the Board of Trade, no special circumstances exist which render such a preference inexpedient."

The following resolution, passed at a conference of local authorities, held at Birmingham during the month of November, 1882, may assist other local authorities, not represented at the Conference, in determining whether they will take

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advantage of the preference here given to them, by themselves becoming applicants for a provisional order.

"After hearing the report of the deputation to the Board of Trade, and considering the position of local authorities both as regards the interest of the ratepayers in the event of such authorities themselves working the electric light, and in the event of its being worked by trading companies, this Conference is of opinion that the science of lighting by electricity is not yet sufficiently developed to justify local authorities expending the ratepayers' moneys in becoming undertakers for the supply of the light; but that every facility should be given by local authorities to trading companies to enable them to develop and work the discovery, and that local authorities should content themselves by making proper provisions for the protection of the ratepayers in regard to the following, amongst other points:—1. Retaining full control of the streets. 2. Suitable situation of the works, so as to secure freedom from danger, nuisance, or annoyance to the inhabitants in the immediate neighbourhood. 3. Regulations as to the wires and lamps, so as to secure freedom from danger. 4. Supply at reasonable prices. 5. The right of purchase by the authorities from the undertakers at a shorter period, if possible, than that provided for by the Act. 6. To endeavour to limit the area over which provisional orders are granted, so as to confine it within such reasonable limits as will enable the local authority to purchase the undertaking with facility, and not have cast upon the ratepayers the burden of purchasing the monopoly over a large and extended area, and also so as to permit co-existent experiments to be made by other companies in other parts of the districts, providing an authority decides to concur in the grant of provisional orders to competing companies. 7. To secure from time to time on the board of management of the electric lighting company direct representation for the ratepayers, by stipulating that at least two members of the local authority shall be *ex officio* members of such board of management."

At the interview between this Birmingham Conference and the Board of Trade, Mr. Chamberlain pointed out that the Board of Trade depended upon local authorities taking care of their own interests by agreement with the promoting companies, before they came to the Board of Trade for their provisional orders, and that the provisional orders would be pretty well agreed to before they were submitted to the Board of Trade. Mr. Farrar also stated that the local authorities will have a *locus standi* to appear before the Board of Trade, so as to obtain the introduction of such provisions into the provisional orders as are necessary for their protection.

(c) See sect. 32, p. 85.

(e) See note (h), p. 8.

(f) See sect. 3, sub-sect. 1, p. 3, and note (e), p. 6.

(g) By Rule IV. (7) the draft order must specify the period for which the concession is sought.

In the case of a provisional order being granted to undertakers (other than a local authority) for an unlimited period, this is in effect cut down to twenty-one years by the operation of the 21st section.

(h) The provisions here spoken of are shortly as follows :—

(1.) The definitions of public and private purposes.

(2.) The publication of notice of an application or a provisional order.

(3.) The passing of a resolution by the local authority at a special meeting.

(4.) The grant of a provisional order to a local authority to supply electricity within an area outside their own district.

(5.) The regulations and conditions to be introduced by the Board of Trade into the order.

(6.) The introduction into the order (where the undertakers are not the local authority) of provisions

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and restrictions as to breaking up streets, and altering position of pipes or wires under streets.

(k) The Board of Trade have made the following rule as to the notice required to be given to the local authority.

Rule IV.—The deposited copies of the proposed license or order must be in print. They must be printed on one side only of the page of paper, so as to leave the back of the page blank, and each schedule annexed must begin a new page.

The name and addresses of the parliamentary agents or solicitors for the license or order must be printed on the outside of the draft.

There must be a notice at the end of the draft, stating that objections are to be made by letter addressed to the Board of Trade, marked on the outside of the cover enclosing it "Electric Lighting Act," and that this letter is to be sent to the Board of Trade within two months from the date of the newspaper containing the first advertisement of the application.

The draft must contain amongst other things—

1. Address and description of the applicants.
2. A description of the proposed area of supply.
3. A statement of the purposes for which a supply is to be given, viz., any or all of the public or private purposes specified in section *three* of the Act.
4. A general description of the proposed works.
5. Provisions concerning the breaking up of streets not repairable by a local authority and concerning interference with railways and tramways, where powers are sought to be obtained by the license or order for those purposes.
6. Conditions of supply, including price, nature and amount of supply, obligation to supply, &c.
7. Period for which concession is sought.
8. Provisions for securing the safety of the consumer and

of the public from injury by shock, fire, or otherwise.

- 9 Provisions for enforcing the performance by the undertakers of their duties in relation to the supply of electricity and for the revocation of the license or order where the undertakers fail to perform such duties.

The applicants are also to deposit a sufficient number of such printed drafts at offices in London and within the proposed area of supply to be specified in the advertisement, such copies to be there furnished to all persons applying for them, at a price of not more than one shilling each.

5. The Board of Trade may from time to time make, and when made may rescind, alter, or repeal rules (a) in relation to the applications for licenses or provisional orders, and to the payments to be made in respect thereof, and to the publication of notices and advertisements, and the manner in which and the time within which representations or objections with reference to any application are to be made, and to the holding of local inquiries (b) in such cases as they may think it advisable, and to any other matters arising under this Act.

Making of
rules as to
application, &c.,
under Act.

Any rules made in pursuance of this section shall be deemed to be within the powers conferred by this Act, and shall be of the same force as if enacted in this Act, and shall be judicially noticed.

Any rules made in pursuance of this section shall be laid before Parliament within three weeks after they are made if Parliament be then sitting, and if Parliament be not then sitting, within three weeks after the beginning of the next session of Parliament.

(a) For copy of rules see Appendix, p. 139. Under sect. 9,

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p. 37, the Board of Trade are empowered to prescribe the form in which, and the particulars to be contained in, the statement of accounts of the undertakings to be published on or before the 25th of March in every year by the undertakers.

(b) See Rule X., Appendix, p. 143.

*Regula-
tions to be
inserted in
licenses,
&c.*

6. The undertakers shall be subject to such regulations and conditions as may be inserted in any license, order, or special Act affecting their undertaking with regard to the following matters :

- (a.) The limits within which and the conditions under which a supply of electricity is to be compulsory or permissive (a);
- (b.) The securing a regular and efficient supply of electricity (b);
- (c.) The securing the safety of the public from personal injury, or from fire or otherwise (c);
- (d.) The limitation of the prices to be charged in respect of the supply of electricity (d);
- (e.) The authorising inspection and inquiry from time to time by the Board of Trade and the local authority;
- (f.) The enforcement of the due performance of the duties of the undertakers in relation to the supply of electricity by the imposition of penalties or otherwise, and the revocation of the license, order, or special Act where the undertakers have, in the opinion of the Board of Trade, practically failed to carry the powers granted to them into effect within a reasonable time, or discontinued the exercise of such powers; and

(g.) Generally with regard to any other matters in connection with the undertakings.

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Provided always, that the Board of Trade may, from time to time, make such regulations as they may think expedient for securing the safety of the public from personal injury or from fire or otherwise, and may from time to time amend or repeal any regulations which may be contained in any such license, order, or special Act in relation thereto ; and any regulations so made or amended by the Board of Trade shall, from and after the date thereof, have the like effect in every respect as though they had been originally inserted in the license, order, or special Act authorising the undertaking, and every regulation so repealed shall, from and after the date thereof, be repealed accordingly, but such repeal shall not affect any liability or penalty incurred in respect thereof prior to the date of such repeal or any proceeding or remedy which might have been had in relation thereto (c).

Any local authority within any part of whose district electricity is authorised to be supplied under any license, order, or special Act may, in addition to any regulations which may be made under the preceding provisions of this section for securing the safety of the public, from time to time make, rescind, alter, or repeal bye-laws for further securing such safety (c) ; and there may be annexed to any breach of such bye-laws such penalties to be recovered in a summary manner as they may think necessary : Provided always, that no such bye-laws shall have any force or effect unless and until they have been confirmed by the Board of Trade and published in such manner as the Board of Trade may direct (e).

s. 6.

(a) By Rule IV. (2) a description of the proposed area, and (6) the conditions of supply, including price, nature, amount of supply, obligation to supply, etc., must be contained in the draft, license, or provisional order. Most of the evidence given before the Electric Lighting Committee went to shew that it was expedient that the Electric Light Companies should be under the same obligation to supply electricity as gas companies are under to supply gas to the whole of the area of supply.

See Report, pp. 41, 47, 173, and 243.

The permissive supply is subject to sect. 19.

(b) By Rule IV. (9), provisions for enforcing the performance by the undertakers of their duties in relation to the supply of electricity, and for the revocation of the license or order where the undertakers fail to perform such duties must be inserted in the draft, license, or order.

(c) By Board of Trade Rule IV. (8) the draft license or order must contain provisions for securing the safety of the consumer and of the public from injury by shock, fire, or otherwise.

It may assist applicants in complying with this rule, and also local authorities in making, rescinding, altering, or repealing bye-laws for securing the public safety within their districts, to be referred to the rules and regulations recommended for the prevention of fire risks from electric lighting by a committee appointed by the Council of the Society of Telegraph Engineers and Electricians, and dated the 21st of June, 1882.

This report is as follows:—

“These rules and regulations are drawn up not only for the guidance and instruction of those who have electric lighting apparatus installed on their premises, but for the reduction to a minimum of those risks of fire which are inherent to every system of artificial illumination.

“The chief danger of every new application of electricity arises mainly from ignorance and inexperience on the part of those who supply and fix up the requisite plant.

“The difficulties that beset the electrical engineer are chiefly internal and invisible, and they can only be effectually guarded against by ‘testing’ or probing with electric currents.

“They depend chiefly on leakage, undue resistance in the conductor, and bad joints, which lead to waste of energy and the production of heat. These defects can only be detected by measuring, by means of special apparatus, the currents that are either ordinarily or for the purpose of testing, passed through the circuit. Bare or exposed conductors should always be within visual inspection, since the accidental falling on to, or the thoughtless placing of other conducting bodies upon, such conductors might lead to ‘short circuiting,’ or the sudden generation of heat due to a powerful current of electricity in conductors too small to carry it.

“It cannot be too strongly urged that amongst the chief enemies to be guarded against are the presence of moisture and the use of ‘earth’ as part of the circuit. Moisture leads to loss of current and to the destruction of the conductor by electrolytic corrosion, and the injudicious use of ‘earth’ as a part of the circuit tends to magnify every other source of difficulty and danger.

“The chief element of safety is the employment of skilled and experienced electricians to supervise the work.

“I. THE DYNAMO MACHINE.

“1. The Dynamo Machine should be fixed in a dry place.

“2. It should not be exposed to dust or flyings.

“3. It should be kept perfectly clean and its bearings well oiled.

“4. The insulation of its coils and conductors should be perfect.

“5. It is better, when practicable, to fix it on an insulated bed.

“6. All conductors in the dynamo room should be firmly

S. 6. — supported, well insulated, conveniently arranged for inspection, and marked or numbered.

“ II. THE WIRES.

“ 7. Every switch or commutator used for turning the current on or off should be constructed so that when it is moved and left to itself it cannot permit of a permanent arc or of heating, and its stand should be made of slate, stone ware, or some other incombustible substance.

“ 8. There should be in connection with the main circuit a safety fuse, constructed of easily fusible metal, which would be melted if the current attain any undue magnitude, and would thus cause the circuit to be broken.

“ 9. Every part of the circuit should be so determined that the gauge of wire to be used is properly proportioned to the currents it will have to carry, and changes of circuit, from a larger to a smaller conductor, should be sufficiently protected with suitable safety fuses so that no portion of the conductor should ever be allowed to attain a temperature exceeding 150° F.

“ N.B.—These fuses are of the very essence of safety. They should always be enclosed in incombustible cases. Even if wires become perceptibly warmed by the ordinary current, it is a proof that they are too small for the work they have to do, and that they ought to be replaced by larger wires.

“ 10. Under ordinary circumstances complete metallic circuits should be used, and the employment of gas or water pipes as conductors for the purpose of completing the circuit should in no case be allowed.

“ 11. Where bare wire out of doors rests on insulating supports it should be coated with insulating material, such as india-rubber tape or tube, for at least two feet on each side of the support.

“ 12. Bare wires passing over the tops of houses should never be less than seven feet clear of any part of the roof,

and they should invariably be high enough, when crossing thoroughfares, to allow fire escapes to pass under them.

“ 13. It is most essential that the joints should be electrically and mechanically perfect. The joint is whipped around with small wire, and the whole mechanically united by solder.

“ 14. The position of wires when underground should be efficiently indicated, and they should be laid down so as to be easily inspected and repaired.

“ 15. All wires used for indoor purposes should be sufficiently insulated.

“ 16. When these wires pass through roofs, floors, walls, or partitions, or where they cross or are liable to touch metallic masses like iron girders or pipes, they should be thoroughly protected from abrasion with each other or with metallic masses, by suitable additional covering; and where they are liable to abrasion from any cause or to the depredations of rats and mice, they should be sufficiently encased in some hard material.

“ 17. Where wires are put out of sight, as beneath flooring, they should be thoroughly protected from mechanical injury, and their position should be indicated.

“ N.B.—The value of frequently testing the wires cannot be too strongly urged. It is an operation skill in which is easily acquired and applied. The escape of electricity cannot be detected by the sense of smell as can gas, but it can be detected by apparatus far more certain and delicate. Leakage not only means waste, but in the presence of moisture it means destruction of the conductor and its insulating covering, by electric action.

“ III. LAMPS.

“ 18. Arc lamps should always be guarded by proper lanterns to prevent danger from falling incandescent pieces of carbon, and from ascending sparks. Their globes should be protected with wire netting.

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"19. The lanterns, and all parts which are to be handled, should be insulated from the circuit.

"IV. DANGER TO PERSON.

"20. To secure persons from danger inside buildings, it is essential so to arrange the conductors and fittings, that no one can be exposed to the shocks of alternating currents exceeding 60 volts; and that there should never be a difference of potential of more than 200 volts between any two points in the same room.

"21. If the difference of potential within any house exceeds 200 volts, whether the source of electricity be external or internal, the house should be provided outside with a 'switch' so arranged that the supply of electricity can be at once cut off."

(d) The draft order or license must contain a stipulation as to the limitation of the price to be charged for the supply of electricity : Board of Trade Rule IV. (6).

The chief difficulty in fixing this limitation, in the opinion of the experts examined before the Select Committee on Electric Lighting, 1882, consists in ascertaining the demand for electricity within the area of supply. If the demand be given, the cost of installation, and of supply, can be calculated, and consequently the price ascertained. See Minutes of Evidence, pp. 237, 243.

The larger the demand for electricity in the area of supply the lower the price at which it can be supplied.

Sir F. J. Bramwell is of opinion that there should be a population of at least 50,000 in each undertaking. Minutes of Evidence, p. 149.

The following estimates of the probable cost of installation and working in given areas of supply, and under given circumstances, are furnished by witnesses examined before the Select Committee on Electric Lighting, and may be useful in complying with the above Board of Trade rule.

DR. SIEMENS:—**S. 6.**

In a quarter of a square mile, which would be a proper electric district in a densely populated town, 2000 horse-power would be required. One horse-power can sustain ten incandescent lamps of 15-candle power, in action. The cost of each horse-power, on a large scale, would be that of 2 lbs. of coal per hour, plus the general expenses of working and maintaining machinery, including superintendence, interest, and depreciation.

The installation in such a district, containing from 1200 to 1500 houses, each house being lighted on the average with twenty incandescent lights of 15-candle power each, and seventy arc lights, for use in streets, halls, and open spaces, including all expenses, except that of purchasing the lamps, would be £100,000.

The annual cost of working, excluding interest and sinking fund, would probably be about £22,000.

In making this estimate it was assumed that gas would still be used for both public and private purposes.

MR. E. H. JOHNSON:—

Economical supply can only be given by installation on a large scale. In a square mile of London with 33,000 lamps burning of ten candles each, the cost for installation complete would be a trifle under £100,000, for 50,000 lamps of ten candles each the cost would be from £150,000 to £200,000. As soon as consumption is known the price can be fixed accurately, but the above figures are accurate within £10,000 or £15,000.

The following is an extract, relating to the cost of installation and of gas and electric lighting respectively, from the report of the Gas Committee to the Town Council of Birmingham. As will be seen from the report itself a view is taken very adverse to the application of ratepayers' money to experiments in electric lighting.

“There are no reliable data on which an estimate can be

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formed of the prospect of a profitable supply of electricity being undertaken. So far as it is known there has been no instance of a profit having been derived from such a supply, but it has been replied that this is a presumption only, as no electric company has yet separated in its accounts the profit and loss on manufacture and supply. It must not, however, be lost sight of that some at least of the scientific witnesses examined before the Parliamentary Committee on the Electric Lighting Bill believed that such a profit is attainable, while others—and those, perhaps, with the best practical acquaintance with the subject—were more cautious, and stated that this had to be proved by experiment on a sufficient scale. One of them (Mr. Crompton) stated that no remunerative return was to be expected during the first seven years, at least, of the experiment. Mr. Gainsford, a member of the Town Council of Sheffield, who has been using electric lighting in collieries with which he is connected, is reported to have said in a recent debate in the Council of that town that his experience had been that electricity cannot be provided at the price of gas even when the motive power is provided free.

“The tenders obtained from electric lighting companies by the City of London and the abandonment of the large installations of incandescent lamps at the Royal Academy and at Stafford House, while significant, are not conclusive. It is urged by the representatives of the companies, and notably by Dr. Siemens, that if private lighting had been added to the public lighting undertaken in the City the immense discrepancy between the cost of electricity and gas would have disappeared. The systems of incandescent lighting referred to were self-contained, and nearly all the scientific witnesses examined on behalf of the electric companies when the Electric Lighting Bill was under examination were agreed that nothing but a large experiment from a common centre would determine the question of cost.

“While it is undoubtedly a misfortune, under present cir-

cumstances, that no accurate information can be obtained on the capital outlay which will be required for such experiment, it is, perhaps, possible to learn what the minimum cost of the chief apparatus would be. It was stated by Dr. Siemens, in the proceedings before the House of Commons Committee, that areas not too large for economical supply were required, and that in densely-populated towns a quarter of a square mile (880 yards square) would be a proper electric district. He roughly estimated the cost of plant for from 24,000 to 30,000 incandescent and 70 arc lamps in such an area at £100,000. Other witnesses submitted estimates as follow :—

Mr. Crompton, 50,000 incandescent lamps, per	
square mile	£200,000
Dr. Hopkinson, 50,000 incandescent lamps, per	
square mile	200,000
Mr. Johnson, 50,000 incandescent lamps, per	{ 150,000
square mile	to 200,000

“ It is evident, however, that these estimates must, to a very large extent, be applied to the number of lamps, and not to the area selected. Taking the number of the lamps as the measure of the cost, they practically agree on a capital account of £4 per lamp. There is, however, some later information available. A statement of the comparative cost of dynamos has recently been published in a letter to *The Times*, from which it appears that the cheapest form of large dynamo yet made is the Siemens, which can be provided to supply 50,000 incandescent lamps at a cost of £75,000. In this statement it was added that the cost of a recently-devised dynamo, the Ferranti, had not yet been ascertained, but that it would be less than that of any now in use. A subsequent statement in the *Daily News* gives the estimated cost of this machine at £1200 for 2000 lamps.

“ The prime cost of the conductor from Messrs. Winfield’s

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works to the Town Hall, about 500 yards in length, is stated to have been more than £800. This is at the rate of about £3000 a mile, without services, but it must be remembered that a larger and therefore more costly conductor would be required for the longer distances involved in an area of 880 square yards.

"It has been stated by electricians that economy in supply can only be obtained by the use of large condensing engines of 500 horse-power, requiring a consumption of from 2 lb. to 3 lb. of coal per horse-power. The committee have, however, been informed by an eminent practical engineer, whose opinion is valuable, that engines of 300 indicated horse-power will be the most economical, the small saving in coal effected by the larger engines not being more than, if sufficient, to cover the interest on the additional proportionate cost of the larger engine and the increased cost of repairs. In addition to the outlay on this plant, there would also be the cost of land for central station (no inconsiderable item, when it is remembered that it must be in the district to be supplied, where land is most valuable, and that storage space for fuel must be provided), of buildings, and of shafting, bands, switches, resistance coils, and the other miscellaneous and delicate appliances required at such a station.

"The committee have endeavoured to apply this knowledge to an area which nearly meets the requirements of electricians, and in which the gas supply can be defined. Market Hall Ward has been selected for this purpose as containing the principal public buildings. This ward covers an area equal to about 1000 yards square, and, therefore, a little larger than that proposed by Dr. Siemens, but it has been necessary to take the whole, as information as to the number of lights in part of it only is not readily attainable. There are in the ward 3570 consumers, who are using at a moderate computation from 100,000 to 120,000 lights. The length of mains in the ward is 19½ miles, and their value £13,500.

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For the supply of gas for lighting in this area, the capital account, other than for distributive plant, but exclusive of meters, is £155,000	
Distributive plant—Mains £13,500	
Services <u>1500</u>	
	<u>15,000</u>
Total £170,000	

“ It may, however, be noted that the cost of new gas works, specially erected for lighting such an area, including distributive plant and meters, ought not now to exceed £100,000.

“ The cost of electric plant for such a supply of (say) 100,000 lights can, from the information available, be estimated as follows :—

*Engines—The cost of engines, including boilers and settings, based on Mr. Crompton's estimate that 12,000 effective horse-power would be re- quired for 50,000 lamps, is variously estimated by local engineers at from £210,000 to £240,000, say £210,000	
*Dynamo (Siemens), without reserves 150,000	
Conductors, at £3000 per mile 58,500	
3500 services (say) 5000	
	<u>£423,500</u>
Add. Buildings, Land, and Apparatus	
Total £	

The cost of meters is left out in both statements, as it is not yet known that a practical electric meter has been devised.

“ It will be seen from the foregoing statement, which the committee have been careful not to over-estimate from the materials before them, that the minimum amount of capital that will be required must considerably exceed £4 per lamp.

* Mr. Crompton estimated the cost of engines and dynamo at £11 5s. per horse-power.

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The committee think it most important to direct the attention of the Council to the fact that the only power to be obtained under the Electric Lighting Act is for the supply of electricity, and that the Act expressly prohibits any arrangement by which profit on any particular form of lamp can be made an integral part of the system of supply. It follows, therefore, that the question of profit to be made by undertakers, whether local authorities or electric-lighting companies, must be considered as solely appertaining to the supply. It cannot be doubted that when conductors have been laid in any area, each of the owners of lamps and apparatus which are protected by patent will urge the employment of a particular lamp, and that while a profit on the manufacture and supply of lamps would thus be secured to them, the undertakers would be left with what has been shewn to be an inevitably costly portion of the business. Nor would it be possible to avoid this by the selection and recommendation of one form of lamp. The most sanguine supporter of electric lighting does not claim that the proposed system of distribution will be free, at any rate for some time to come, from difficulties, imperfections, or even failures. These would certainly be attributed by rival companies either to the use by consumers of the wrong lamp, or to the use by the undertakers of the wrong dynamo. It is conceivable that, the supply being in the hands of a local authority, with generating plant recently put down, consumers who had purchased costly fittings, and who were impatient under imperfections or difficulties which had manifested themselves in this experimental work, would demand that the dynamo in use should be abandoned in favour of some other form which for the moment attracted attention. It is also most important to remember that whatever the cost of supplying electricity is found to be, the undertakers will be subject to great pressure by consumers to supply it at the same cost as gas, or, at the least, at prime cost. Local authorities having already the supply of gas in their hands will have additional diffi-

culties in this respect, as, even if supplying electricity at prime cost, they will be suspected, especially by others seeking powers to establish a rival system, or by agents eager to sell lamps, of unduly keeping up the price in order to foster the gas supply.

“Your committee are therefore of opinion that the subject of the corporation undertaking the supply must be considered as a question of the general convenience and welfare of the public, and without reference to profits to be derived from it.

“**AS TO OBLIGATIONS AND RESPONSIBILITIES.**—The obligations which will be imposed on undertakers will not probably be onerous at the outset, although the committee think it desirable to point out that they may be more onerous under sections 11 and 19 of the Electric Lighting Act than would at first sight appear, and they direct the attention of the Council to these two sections of the Act. In the former section it is provided that, unless with the consent of the Board of Trade, no local authority obtaining powers for the supply of electricity, and contracting with a company for the execution of these powers, shall divest themselves of any legal liabilities imposed on them in connection with such powers. It is, therefore, conceivable that a local authority might be placed in considerable difficulty under these circumstances by the default of a company with which it had contracted. The town clerk is of opinion that the meaning of section 19 is not clear. It is, therefore, necessary to point out that under this section it may be contended that the undertakers will be under an obligation to supply electricity in any part of the selected area. In that event this would be a serious obligation, as it might, and probably would, involve the laying of conductors over the whole area for a very limited consumption.

“Under any circumstances, however, the obligations imposed with regard to the public safety cannot fail, after the evidence submitted to the House of Commons Committee on

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the Bill, to be stringent, and they will at least impose serious responsibilities on the undertakers. There are other obligations in the Act which, while not onerous, will in all probability be the occasion of difficulty and expense, at least in the earlier stages of the experiment—those, for instance, in section 17, which, though not new in Acts of Parliament, are now to be applied to new circumstances, and those in section 26, for the protection of telegraph wires. It may be that the cost of laying conductors will be seriously increased by their removal becoming necessary on account of induction, and that the difficulties which the telephone companies have experienced in this respect will be much greater under the proposed application of electricity on a more extensive scale. Apart from the obligations imposed by the Act there are those which are definite under the Board of Trade rules with regard to applications for authority to supply electricity. All memorials for the grant of such authority are required, *inter alia*, to

Give a general description of the proposed works.

State the proposed conditions of supply, including price, nature and amount of supply, obligations to supply, &c.

State proposed provisions for the safety of the public.

State proposed capital, and how to be raised.

“ On consideration of these requirements, it is obvious that if the Council decided to apply for powers, they must at once obtain special professional help; that it would be necessary to rely solely on that help, and to accept the responsibility of taking action on technical and commercial matters involving heavy responsibilities, and possibly parliamentary opposition, without experience to guide them or their advisers in the matter.

“ There is, for instance, the difficulty of price. Dr. Siemens stated in his evidence before the House of Commons Committee that there is no practical self-registering electric meter in use, and all that is practicable at present is to regulate the maximum supply to each house. Your com-

mittee are of opinion that there would be considerable risk in accepting any recommendation on this subject. Or, again, on the question of works. If the precedent in gas legislation is followed, the site of the works must be stated in the order. It is possible that there may be considerable opposition to the establishment of such works in busy centres, while if the works are to be placed outside the district, economy of supply becomes impossible. The other requirements, especially that as to the provisions for public safety, for the sufficiency of which the local authority will probably be held responsible by the public in case of misfortune arising from oversight on the part of their advisers, appear to the committee to require very careful consideration on the part of the Council before they are voluntarily undertaken.

"With regard to the capital, which cannot be estimated at less than £450,000 for the area selected for comparison, or £300,000 for an area of the size stated by Dr. Siemens to be the proper limit, it is not probable that the whole of it would be required at once. At the outset, however, a very large proportion of it must be expended. Sufficient land must be secured, and buildings large enough for extensions of plant erected. Large engines and dynamos must be provided, even if the engines have to be worked at first much under their capacity. Expensive conductors, of the size calculated for the ultimate supply when continued over the whole area, must be laid in the first instance. If these conditions are not observed, the chief objects of the experiments to be tried—viz., the possibility of supply over a sufficient area from a common centre, and the reduction of the cost of fuel and of the working expenses at the central station to the lowest possible point—will not be attained.

"It appeared to the committee that, apart from all other circumstances, it is not probable that the Council or the town would sanction an application to Parliament for power to expend £300,000 on an experiment of this kind. They have therefore inquired whether a smaller installation could

a. a.

be made, and at what minimum expenditure of capital it could be undertaken without sacrificing economy of production. It is not probable that the town will accept as a satisfactory trial any experiment that does not make provision for the supply of the Town Hall and the public buildings around it. Assuming that the capital expenditure for a small installation would be in the same proportion as for a larger one, a capital of £100,000 would provide 20,000 lamps, a smaller number than that stated by any of the scientific witnesses before the House of Commons Committee to be the minimum which could be supplied with the greatest economy. Of this number about 3000 would be required to supply the Town Hall and the group of public or semi-public buildings in its immediate neighbourhood, leaving 17,000 for private lighting, without arc lamps. This would be less than the number of lights now used in New-street and High-street, including provision for the ordinary lighting of the Theatre Royal, and omitting the Exchange, New-street Railway Station, and Queen's Hotel.

" Apart from the loss of economy which would result from the necessity in this case of placing the generating station on the outside of the district of supply, such an installation would have but little practical value as an experiment. It would be useless as a test of the size of the ultimate area which could be lighted. It would be inconclusive as to the effect of adding new supplies to conductors of varying sizes and lengths laid over a large area, and probably as to the difficulties of regulating the current to meet a varying demand."

See also an article on Electric and Gas Illumination by C. M. Lungren, in the 'Electrician,' vol. ix. pp. 448, 524, reprinted from the 'Popular Science Review.'

(e) The bye-laws which the local authority are here empowered to make must only relate to securing the safety of the public within their own district. Such of the bye-laws (if any) as exceed this are void: see *Hall v. Nixon, L. R.*

10 Q. B. 152; *Baker v. Mayor of Portsmouth*, 3 Ex. Div. 157; *Waite v. Garston*, L. R. 3 Q. B. 5; *Young v. Edwards*, 33 L. J. M. C. 227; *Hattersley v. Burr*, 4 H. & C. 523.

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So also if they are unreasonable: *London, Brighton, and South Coast Ry. Co. v. Watson*, 3 C. P. D. 429; *Fielding v. Rhyl Improvement Commissioners*, 3 C. P. D. 272; *Elwood v. Bullock*, 6 Q. R. 383. Or if repugnant: *Dearden v. Townsend*, L. R. 1 Q. B. 10; *Bentham v. Hoyle*, 3 Q. B. D. 289; *Dyson v. London and North Western Ry. Co.*, 7 Q. B. D. 32; or if the penalties are unreasonable: *Saunders v. South Western Ry. Co.*, 5 Q. B. D. 456; notwithstanding that such bye-laws have been confirmed by the Board of Trade: *Reg. v. Rose*, 24 L. J. M. C. 130.

7. Any expenses incurred by a local authority under this Act, and not otherwise provided for, including any expenses incurred in connexion with the obtaining by them, or any opposition to the obtaining by any other local authority, company, or person, of any license, order, or special Act under this Act, may be defrayed out of the local rate as defined in the schedule to this Act (a), and the local authority may from time to time cause such rates to be levied as may be necessary for the purpose of defraying such expenses; provided that where such local authority is a rural sanitary authority such expenses shall be deemed to be special expenses within the meaning of the Public Health Act, 1875 (b).

Expenses
of local
authority.

(a) See schedule and notes thereon, p. 89.

(b) See schedule and notes thereon, p. 91.

8. A local authority authorised to supply electricity by any license, order, or special Act may from time to time borrow money on such security, with such consent

Power of
local
authority
to borrow
money.

s. 8.

and subject to such provisions and restrictions with respect to borrowing and the repayment of loans, as are in the schedule to this Act in that behalf mentioned, and the money so borrowed shall be deemed to be borrowed under the enactments subject to the provisions and restrictions of which it is borrowed (*a*), and the accounts of all receipts and expenditure by the local authority in pursuance of this Act, or any license, order, or special Act, shall be subject to such audit as is in the said schedule in that behalf mentioned (*a*) : Provided always, that any moneys borrowed under this section by the local authority of any district to which the Local Loans Act, 1875, extends (*c*), may, if it is thought fit, be borrowed in manner provided by that Act; and in the construction of the said Act for the purposes of this Act the expression "prescribed" means prescribed by any conditions imposed by the authority whose consent is required to borrowing under this section.

Where any local authority is authorised by any Act to raise any money which they may be empowered to borrow for certain purposes by the issue of corporation or other stock, any money which a local authority may be authorised to borrow under this section may, if it is thought fit, be raised by them by the issue of such stock as aforesaid.

This section shall not apply to the mayor, commonalty, and citizens of the city of London or to the Metropolitan Board of Works, except in so far as the Metropolitan Board of Works may be concerned in the borrowing of any money by any vestry or district board.

(*a*) See schedule and notes thereto, p. 90.

(c) The Local Loans Act, 1875 (38 & 39 Vict. c. 83), s. 4, provides that "a local authority shall be deemed to borrow, subject to the provisions of this Act, whenever it raises a loan by the issue of debentures or debenture stock or annuity certificates, purporting to be created under its powers, or partly in one way and partly in another; subject to this proviso, that where a loan is directed to be raised by debentures, or debenture stock or annuity certificates under this Act, the prescribed mode only shall be adopted."

S. 9.

The authority whose consent is required to borrow under this section, is given in the schedule, and see notes thereon, p. 90.

9. The undertakers shall on or before the twenty-fifth Accounts. day of March in every year fill up an annual statement of accounts of the undertaking made up to the thirty-first day of December then next preceding; and such statement shall be in such form and shall contain such particulars and shall be published in such manner as may from time to time be prescribed in that behalf by the Board of Trade (a).

The undertakers shall keep copies of such annual statement at their office, and sell the same to any applicant at a price not exceeding one shilling a copy.

In case the undertakers make default in complying with the provisions of this section, they shall be liable to a penalty not exceeding forty shillings for each day during which such default continues.

(a) The provisions of this section apply to "the undertakers," and are therefore directed against "every local authority, company, or person who may by this Act or any license or provisional order granted under this Act, or by any special Act to be hereafter passed, be authorized to supply electricity within any area" (sect. 2).

S. 10.

Local authorities, as distinguished from other "undertakers," are subject to the further provisions of sect. 8, which provides that "the accounts of all receipts and expenditure by the local authority in pursuance of this Act, or any license, order, or special Act, shall be subject to such audit as is in the said schedule in that behalf mentioned." See schedule and note thereto, p. 90.

General powers of undertakers under license or provisional order.

10. The undertakers may, subject to and in accordance with the provisions and restrictions of this Act, and of any rules made by the Board of Trade in pursuance of this Act, and of any license, order, or special Act authorising or affecting their undertaking (*a*), and for the purpose of supplying electricity, acquire such lands by agreement (*b*), construct such works, acquire such licenses for the use of any patented or protected processes, inventions, machinery, apparatus, methods, materials, or other things, enter into such contracts, and generally do all such acts and things as may be necessary and incidental to such supply.

(*a*) The powers given to the undertakers by this section are subject to the provisions and restrictions (A.) of this Act, (B.) of any rules made by the Board of Trade in pursuance of this Act, and (C.) of any license, order, or special Act authorizing or affecting their undertaking.

(A.) Those made by this Act are:

1. As regards acquiring lands by agreement:

The chief provisions are those contained in the Lands Clauses Act, 1845, ss. 6 to 15, see note (*a*), p. 45.

The undertakers can only acquire lands by agreement, as the provisions of the Lands Clauses Act, 1845, relating to the acquisition of lands otherwise than by agreement have not been incorporated.

It should be noted that "land" includes easements in or relating to land: see sect. 12 of Electric Lighting Act, p. 44.

S. 10.

2. As regards the construction of works:

By sect. 13, p. 62, the undertakers are restricted from breaking up any private streets, railways, or tramways unless in pursuance of special powers inserted in the license, order, or special Act, or with the written consent of the Board of Trade.

By sect. 14, p. 63, the undertakers are restricted from placing any electric line above ground, along, over, or across any street, without the express consent of the local authority, and even when they have obtained this consent they are liable to be ordered by a court of summary jurisdiction to remove the lines if the court is of opinion that the lines are, or are likely to become, dangerous to the public safety, upon complaint being made by any person who objects to the position of the lines.

By sect. 15, p. 64, the undertakers have power to alter the position of pipes and wires which interfere with their undertaking provided they compensate the owners of such pipes and wires.

By sect. 16, p. 55, the undertakers are obliged to remove their works on reasonable facilities being afforded them for doing so, if their works interfere with any canal or communication between such canal and any lock, basin, or other work for any vessel with or without masts.

For the provisions relating to breaking up streets for the purpose of laying pipes, see Gasworks Clauses Act, 1847, note (b), p. 52.

The expression "works" is defined by sect. 32, p. 84, to mean and include electric lines, also any buildings,

S. 10.

machinery, engines, works, matters, or things of whatever description required to supply electricity, &c.

3. As regards entering into contracts the chief provisions are first, as we have seen above: That the undertakers may enter into contracts for the purchase of lands and the easements relating thereto; secondly, that they may contract with any company or person for the execution and maintenance of any works for the supply of electricity within the whole or any part of the area they are empowered to supply, but not so as to divest themselves of their legal powers or liabilities without the consent of the Board of Trade: sect. 11, p. 41.

(B.) The chief provisions made by the Board of Trade are—

1. As regards acquiring land:

By Rule XII. the undertakers must deposit at the office of the Board of Trade before the license is delivered a description of lands they propose to purchase for the purpose of the license or provisional order, and must produce to the Board of Trade the contracts for the purchase of all such lands.

By Rule V. a published map of the district on a scale not less than one inch to a mile, or if there is no published map, then the best map procurable showing the lands which the applicants propose to take for the purposes of the license or order must be deposited with the memorial on application for the license.

2. As regards construction of works:

By Rule IV. the draft must contain a general description of the proposed works, and also, where powers are sought to be obtained by the license or order for those purposes, provisions concerning

the breaking up of streets not repairable by a local authority, and concerning interference with railways and tramways.

By Rule V. a published map must be deposited with the memorial on application for the license showing the streets and other places in, over, or along which it is proposed to place any electric lines or other works.

By Rule IX. the advertisement that application for a license or order has been made must contain (a) a general description of the nature of the proposed works; (b) the names of the streets and other places in, over, or along which it is proposed to place any electric lines or other works; (c) a list of the streets not repairable by a local authority and of the railways and tramways (if any) which the applicants propose to take powers by the license or order to break up.

(C.) The provisions and restrictions to be introduced into licenses and provisional orders are indicated by sects. 3 and 4 and notes thereto.

(b) See note (a), p. 45.

11. Any local authority who have obtained a license, order, or special Act for the supply of electricity, may contract with any company or person for the execution and maintenance of any works needed for the purposes of such supply, or for the supply of electricity within any area mentioned in such license, order, or special Act, or in any part of such area; but no local authority, company, or person shall by any contract or assignment transfer to any other company or person or divest themselves of any legal powers given to them, or any legal liabilities imposed on them by this Act, or by any license, order,

Power for
local
authority
to con-
tract in
certain
cases and
restrictions
on assign-
ments of
powers,
&c., of
under-
takers.

s. 11. or special Act, without the consent of the Board of Trade (a).

(a) The object of the first part of this section appears to be to prevent contracts entered into by local authorities for the execution and maintainance of works for the supply of electricity being *ultra vires*. The object of the second part of the section is to prevent the transfer by undertakers of the powers given to them, and the liabilities imposed upon them by this Act, license, order, or special Act, without the consent of the Board of Trade. The section does not appear in any way to alter the law relating to the liability of an employer for any tortious act of a contractor. It may be useful shortly to state the law upon this subject.

The liability of a local authority employing a contractor to do work for them depends upon whether the relation of master and servant exists between such local authority and contractor. Wherever the relation of master and servant can be shown to exist, the employer is liable for the acts of those he employs to do any work, upon the principle "*respondeat superior*": *Laughter v. Pointer*, 5 B. & C. 547; *Quarman v. Burnett*, 6 M. & W. 499; *Butler v. Hunter*, 7 H. & N. 826; but the liability by virtue of the principle of relation of master and servant must cease where the relation itself ceases to exist: *Lucas v. Mason*, L. R. 10 Exch. 251; *Hole v. Sittingbourne and Sheerness Ry. Co.*, 30 L. J. Exch. 81.

If, therefore, the local authority employ a contractor, who has complete control over those he employs, and entire conduct and management of the work, to do any lawful work, viz., one which they are empowered by license, order, or Act of Parliament to do, they will not be responsible for the negligent execution of the work of the contractor, or his servants, or for any injuries arising from the execution of the work, as the relation of master and servant will not then exist: *Gray v. Pullen*, 32 L. J. Q. B. 169; *Mersey Docks*

Trustees v. Gibbs, L. R. 1 E. & I. App. 93; *Overton v. Freeman*, 11 C. B. 867; *Peachy v. Rowland*, 13 C. B. 182.

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In the following cases, however, the local authority will be liable for the wrongful acts of the contractor.

(1.) Where from the work ordered to be done, though lawful in itself, injurious consequences must, in the natural course of things, be expected to arise, unless means are adopted by which such consequences may be prevented, the local authority is bound to see to the doing of that which is necessary to prevent the mischief, and cannot relieve themselves of their responsibility by employing someone else to do what is necessary to prevent the act they have ordered to be done from becoming wrongful: *Bower v. Pete*, 1 Q. B. D. 321, approved of in *Dalton v. Angus*, 6 App. Cas. 791; *Percival v. Hughes*, 9 Q. B. D. 441.

(2.) Where the work ordered to be done is unlawful, viz., such as the local authority are not empowered by license, order, or Act of Parliament to do, then they will be liable to a third person who may sustain any injury or damage from the execution of that work: see *Ellis v. Sheffield Gas Company*, 2 Ell. & Bl. 767; *Hole v. Sittingbourne and Sheerness Ry. Co.* 30 L. J. Exch. 81.

(3.) Where the local authority retain their control over the contractor, and personally interfere and make themselves parties to the act that causes damage: *Burgess v. Gray*, 1 C. B. 578.

12. The provisions of the following Acts shall be incorporated with this Act; that is to say,

- (1.) The Lands Clauses Acts, except the enactments with respect to the purchase and taking of lands otherwise than by agreement, and except the enactments with respect to the entry upon lands by the promoters of the undertaking (*a*); and
- (2.) The provisions of the Gasworks Clauses Act, 1847,

Incorporation of certain provisions of Clauses Consolidation Acts.

s. 12.

with respect to breaking up streets for the purpose of laying pipes, and with respect to waste or misuse of the gas or injury to the pipes and other works, except so much thereof as relates to the use of any burner other than such as has been provided or approved of by the undertakers (b) p. 52; and

- (3.) Sections thirty-eight to forty-two inclusive, and sections forty-five and forty-six, of the Gasworks Clauses Act, 1871 (c) p. 60.

For the purposes of this Act, in the construction of all the enactments incorporated by this section "the special Act" means this Act inclusive of any license, order, or special Act; and the "promoters" or "undertakers," and "the undertaking," as the case may be, mean the undertakers and the undertaking respectively under this Act.

In the construction of the said Lands Clauses Acts, "land" includes easements in or relating to lands.

In the construction of the said Gasworks Clauses Act, 1847, and the Gasworks Clauses Act, 1871, the said Acts shall be construed as if "gas" meant "electricity," and as if "pipe" meant electric line, and "works" meant "works" as defined by this Act, and as if "the limits of the special Act" meant the area within which the undertakers are authorised to supply electricity under any license, order, or special Act.

All offences, forfeitures, penalties, and damages under

the said incorporated provisions of the said Acts or any of them may be prosecuted and may be recovered in manner by the said Acts respectively enacted in relation thereto, provided that sums recoverable under the provisions of section forty of the Gasworks Clauses Act, 1871, shall not be recovered as penalties, but may be recovered summarily as civil debts.

(a) The Lands Clauses Acts are, by sect. 32 of this Act, defined as the Lands Clauses Consolidation Acts, 1845, 1860, and 1869. Sections 61-5 of the Act of 1845 are the only provisions of these Acts to which reference is likely to be frequent in matters relating to electric lighting. They refer to the purchase of lands by agreement, and are as follows :—

VI. "Subject to the provisions of this and the special Act it shall be lawful for the promoters of the undertaking to agree with the owners of any lands by the special Act authorized to be taken, and which shall be required for the purposes of such Act, and with all parties having any estate or interest in such lands, or by this or the special Act enabled to sell and convey the same, for the absolute purchase, for a consideration in money, of any such lands, or such parts thereof as they shall think proper, and of all estates and interests in such lands of what kind soever."

Power to
purchase
lands by
agreement.

The undertakers will not waive their agreement with any owner of land if, after they have agreed for the purchase of part of any property, they give notice to treat with a view of ascertaining the price by arbitration under the agreement: *South Devon Shipping Co. v. Metropolitan Board of Works*, W. N. 1876, p. 167. Neither will they be liable to pay the costs of a suit to enforce the sale, if after agreement the owner devises away in strict settlement the land agreed to be purchased: *Eastern Counties Ry. Co. v. Tufnell*, 3 Rail. Cases, 133.

S. 12.

If the undertakers enter into any agreement for the purchase of land from any owner for a fixed price, and subsequently change the direction of their works through his land from that originally agreed upon, the agreement will still be binding: *Bedford and Cambridge Ry. Co. v. Stanley*, 1 N. B. 162.

The undertakers will be obliged to purchase not only land necessary for the lines, works, &c., but also the whole of any house, building, or manufactory if the owner wishes to sell it under sect. 92: see *Governors of the Hospital of St. Thomas v. Charing Cross Ry. Co.*, 30 L. J. Ch. 395; *Sparrow v. Oxford, Worcester and Wolverhampton Ry. Co.*, 21 L. J. Ch. 731.

The undertakers will be confined strictly to the powers given them by their Act, and will not be able to enter into any undertaking not specified therein: see *Salomon v. Laing*, 12 Beav. 339; *Coleman v. Eastern Counties Ry. Co.*, 10 Beav. 1.

Though no time is fixed by this section, the undertakers will be compelled to complete the purchase within reasonable time, and if the Court are convinced that the price is reasonable, they will order the undertakers to appoint a valuer under sect. 9: *Baker v. Metropolitan Ry. Co.*, 31 Beav. 504; and if they agree to purchase land at a fixed price, paying compensation to be settled by arbitration, any unforeseen damage at the time of arbitration is not included: *Lawrence v. Great Northern Ry. Co.*, 16 Q. B. 643; *Lancashire and Yorkshire Ry. Co. v. Evans*, 15 Beav. 322.

The undertakers will stand in exactly the same position as private persons with regard to the vendor's lien. An unpaid vendor of land, of which the company is in possession, has a lien on land for the purchase-money, and compensation for severance, which the Court will enforce though the works are in use: *Walker v. Ware, Hadham, and Buntingford Ry. Co.*, L. R. 1 Eq. 195; *Wing v. Tottenham and Hampstead Junction Ry. Co.*, L. R. 3 Ch. 740; and if an agreement is made to pay in cash, or by such securities as shall be agreed upon at the option of the undertakers, it is not an agree-

ment to take the securities instead of cash, and the vendor has a lien for the purchase-money, and is entitled to sell in default of payment: *Pell v. Midland and South Wales Ry. Co.*, 17 W. R. 506.

Where the undertakers agree to pay the purchase-money on a certain day, and fail to do so, the Court may make an order that, on default of payment within six weeks, the land shall be delivered up: *Sutton v. Hoylake Ry. Co.*, 20 L. T. (N.S.) 214; *Earl of Jersey v. South Wales Mineral Ry. Co.* 19 L. T. (N.S.) 446.

If two companies are competing to supply the same district, and agree that whichever obtains the right to supply the district shall be bound by the contracts for purchase entered into by the other, the vendors, if consenting, can obtain specific performance: *Stanley v. Chester and Birkenhead Ry. Co.*, 3 M. & Craig, 773; also if the companies become incorporated together: *Preston v. Liverpool, Manchester and Newcastle Junction Ry. Co.*, 1 Sim. (N.S.) 586.

VII. "It shall be lawful for all parties, being seised, possessed of, or entitled to any such lands, or any estate or interest therein, to sell and convey or release the same to the promoters of the undertaking, and to enter into all necessary agreements for that purpose; and particularly it shall be lawful for all or any of the following parties so seised, possessed, or entitled as aforesaid so to sell, convey, or release; (that is to say), all corporations, tenants in tail or for life, married women seised in their own right or entitled to dower, guardians, committees of lunatics and idiots, trustees or feoffees in trust for charitable or other purposes, executors and administrators, and all parties for the time being entitled to the receipt of the rents and profits of any such lands in possession or subject to any estate in dower, or to any lease for life, or for lives and years, or for years, or any less interest; and the power so to sell and convey or release as aforesaid may lawfully be exercised by all such parties, other than

Parties under disability enabled to sell and convey.

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married women entitled to dower, or lessees for life, or for lives and years, or for years, or for any less interest, not only on behalf of themselves and their respective heirs, executors, administrators, and successors, but also for and on behalf of every person entitled in reversion, remainder, or expectancy after them, or in defeasance of the estates of such parties, and as to such married women, whether they be of full age or not, as if they were sole and of full age, and as to such guardians, on behalf of their wards, and as to such committees, on behalf of the lunatics and idiots of whom they are the committees respectively, and that to the same extent as such wives, wards, lunatics and idiots respectively could have exercised the same power under the authority of this or the special Act if they had respectively been under no disability, and as to such trustees, executors, and administrators, on behalf of their *cestui que trusts*, whether infants, issue unborn, lunatics, feme covert, or other persons, and that to the same extent as such *cestui que trusts* respectively could have exercised the same powers under the authority of this and the special Act if they had respectively been under no disability."

If the purchase-money amount to £200 it must be deposited in the bank, if from £20 to £200 to be deposited or paid to trustees, if not exceeding £20 to be paid to the parties: see ss. 68-80 of this Act.

If the estate for life be equitable, trustees must join in a conveyance: *Lippincott v. Smith*, 29 L. J. Ch. 520.

A married woman may convey by this section where land is limited to her and her husband in fee in remainder: *Cooper v. Gosling*, 11 W. R. 931.

Before the committee of a lunatic can agree to sell the lands of the lunatic he must obtain the Lord Chancellor's consent: *Re Taylor*, 6 Rail. Cas. 741.

Inalienable estates tail are within this sect. 1: *In re Cuckfield*, 19 Beav. 153.

Parties
under dis-

VIII. "The power hereinafter given to enfranchise copy-

hold lands, as well as every other power required to be exercised by the lord of any manor pursuant to the provisions of this or the special Act, or any Act incorporated therewith, and the power to release lands from any rent, charge, or incumbrance, and to agree for the apportionment of any such rent, charge, or incumbrance, shall extend to and may lawfully be exercised by every party hereinbefore enabled to sell and convey or release lands to the promoters of the undertaking.

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ability to
exercise
other
powers.

IX. "The purchase-money or compensation to be paid for any lands to be purchased or taken from any party under any disability or incapacity, and not having power to sell or convey such lands except under the provisions of this or the special Act, and the compensation to be paid for any permanent damage or injury to any such lands, shall not, except where the same shall have been determined by the verdict of a jury, or by arbitration, or by the valuation of a surveyor appointed by two justices under the provisions hereinafter contained, be less than shall be determined by the valuation of two able practical surveyors, one of whom shall be nominated by the promoters of the undertaking, and the other by the other party, and if such two surveyors cannot agree in the valuation, then by such third surveyor as any two justices shall upon application of either party, after notice to the other party, for that purpose nominate; and each of such two surveyors if they agree, or if not then the surveyor nominated by the said justices, shall annex to the valuation a declaration in writing, subscribed by them or him, of the correctness thereof; and all such purchase-money or compensation shall be deposited in the bank for the benefit of the parties interested, in manner hereinafter mentioned."

Amount of
compensa-
tion in case
of parties
under dis-
ability to
be ascer-
tained by
valuation
and paid
into the
bank.

It was held in *Stone v. Mayor of Yeovil* (L. R. 2 C. P. D. 99) that this section applies to compensation for injuriously affecting land, not taken by the promoters, as well as to compensation for taking lands; the words "injury to any such

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"lands" meaning injury to lands held by persons under disability.

The provisions of this section must be strictly carried out. Where a railway company agreed with a corporation, having no power to sell except under this Act, for the purchase of a piece of land, and no certificate had been obtained from two surveyors of the adequacy of the price, the Court, affirming the decision of the Master of the Rolls, refused to decree specific performance of the agreement: *Wycombe Ry. Co. v. Donnington Hospital*, L. R. 1 Ch. 268.

The Court will direct an inquiry as to the sufficiency of the price under the agreement upon the undertakers refusing to carry out the agreement, and appoint a surveyor: *Baker v. Metropolitan Ry. Co.*, 31 Beav. 504.

When the owner of land dies, and his estate descends to infants, if he has contracted for the sale of land, the expenses connected with the enforcement of the conveyance of this land must be paid out of the purchase-money: *Midland Counties Ry. Co. v. Wercomb*, 2 Railw. C. 211.

Where vendor absolutely entitled, lands may be sold on chief rents.

X. "It shall be lawful for any person seised in fee of, or entitled to dispose of absolutely for his own benefit, any lands authorized to be purchased for the purposes of the special Act to sell and convey such lands or any part thereof unto the promoters of the undertaking in consideration of an annual rent-charge payable by the promoters of the undertaking, but, except as aforesaid, the consideration to be paid for the purchase of any such lands, or for any damage done thereto, shall be in a gross sum."

So much of this section as provides that, save in the case of lands of which any person is seised in fee, or entitled to dispose absolutely for his own benefit, the consideration to be paid for any lands or for any damage done thereto shall be in a gross sum, is repealed by the 1st section of 23 & 24 Vict. c. 106 (Lands Clauses Consolidation Act Amendment Act, 1860). By the 2nd section of the amending Act the

provisions of the 10th and 11th sections of this Act as to power to sell, &c., lands for an annual rent-charge and to recover, are extended to all sales where the parties are under disability.

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XI. "The yearly rents reserved by any such conveyance shall be charged on the tolls or rates, if any, payable under the special Act, and shall be otherwise secured in such manner as shall be agreed between the parties, and shall be paid by the promoters of the undertaking as such rents become payable; and if at any time any such rents be not paid within thirty days after they so become payable, and after demand thereof in writing, the person to whom any such rent shall be payable may either recover the same from the promoters of the undertaking, with costs of suit, by action of debt in any of the superior Courts, or it shall be lawful for him to levy the same by distress of the goods and chattels of the promoters of the undertaking."

Payment
of rents to
be charged
on tolls.

In *Eyton v. Denbigh, Ruthin and Corwen Ry. Co.* (L. R. 7 Eq. 439) it was held that the holders of rent-charges created by a railway company under sects. 10 and 11 of this Act, and charged on the undertakings of the company, have a first charge on the lands of the company comprised in the deeds of charge, and are entitled to have the rent-charges paid out of the net earnings of the undertaking in priority to debenture holders.

It was also held, in the same case, that the holder of a rent-charge could distrain notwithstanding the appointment of a receiver.

XII. "In case the promoters of the undertaking shall be empowered by the special Act to purchase lands for extraordinary purposes, it shall be lawful for all parties who, under the provisions hereinbefore contained, would be enabled to sell and convey lands, to sell and convey the lands so authorized to be purchased for extraordinary purposes.

Power to
purchase
lands re-
quired for
additional
accommo-
dation.

XIII. "It shall be lawful for the promoters of the undertaking to sell the lands which they shall have so acquired

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Authority
to sell and
repurchase
such lands.

for extraordinary purposes, or any part thereof, in such manner, and for such considerations, and to such persons, as the promoters of the undertaking may think fit, and again to purchase other lands for the like purposes, and afterwards sell the same, and so from time to time; but the total quantity of land to be held at any one time by the promoters of the undertaking, for the purposes aforesaid, shall not exceed the prescribed quantity.

**Restraint
on pur-
chase from
incapaci-
tated
persons.**

XIV. "The promoters of the undertaking shall not, by virtue of the power to purchase land for extraordinary purposes, purchase more than the prescribed quantity from any party under legal disability, or who would not be able to sell and convey such lands except under the powers of this and the special Act; and if the promoters of the undertaking purchase the said quantity of land from any party under such legal disability, and afterwards sell the whole or any part of the land so purchased, it shall not be lawful for any party being under legal disability to sell to the promoters of the undertaking any other lands in lieu of the land so sold or disposed of by them.

**Municipal
corpora-
tions not
to sell
without
the appro-
bation of
the
Treasury.**

XV. "Nothing in this or the special Act contained shall enable any municipal corporation to sell for the purposes of the special Act, without the approbation of the Commissioners of Her Majesty's Treasury of the United Kingdom of *Great Britain and Ireland*, or any three of them, any lands which they could not have sold without such approbation before the passing of the special Act, other than such lands as the company are by the powers of this or the special Act empowered to purchase or take compulsorily."

(b) The following are the provisions of the Gasworks Clauses Act, 1847, incorporated by this section.

"With respect to the breaking up of streets for the purpose of laying pipes, be it enacted as follows:

**Power to
break up
up streets,
&c., under**

VI. "The undertakers, under such superintendence as is hereinafter specified, may open and break up the soil and pavement of the several streets and bridges within the limits

of the Special Act, and may open and break up any sewers, drains, or tunnels within or under such streets and bridges, and lay down and place within the same limits pipes, conduits, service pipes, and other works, and from time to time repair, alter, or remove the same, and also make any sewers that may be necessary for carrying off the washings and waste liquids which may arise in the making of the gas, and for the purposes aforesaid may remove and use all earth and materials in and under such streets and bridges, and they may in such streets erect any pillars, lamps, and other works, and do all other acts which the undertakers shall from time to time deem necessary for supplying gas to the inhabitants of the district included within the said limits, doing as little damage as may be in the execution of the powers hereby or by the Special Act granted, and making compensation for any damage which may be done in the execution of such powers."

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superin-
tendence,
and to open
drains.

The definition of the word "street" in this Act has been followed in the Electric Lighting Act. See note to sect. 32, note (h), p. 85.

The powers conferred by this and other sections of the Act, can only be exercised by the "undertakers," that is to say any "local authority, company, or person who may by this (Electric Lighting) Act, or any license or provisional order granted under this Act, or by any special Act to be hereafter passed, be authorised to supply electricity within any area."

A company, without the authority of Parliament, cannot interfere as they think fit with the streets and public ways of a town : *Attorney-General v. Cambridge Consumers Gas Company*, L. R. 6 Eq. 282; 4 Ch. 71; 38 L. J. Ch. 94-111. See also *Attorney-General v. Sheffield Gas Consumers Co.*, 22 L. J. Ch. 811; 17 Jur. 677; *Reg. v. Train*, 2 B. & S. 640.

It being an unlawful act, without legislative sanction, to take up the streets of a town, the employer of a servant who, while so employed, causes injury to a third party, is liable to an action for such injury : *Ellis v. The Sheffield Gas Consumers*

S. 12. *Co.*, 23 L. J. Q. B. 42; *Stockport Waterworks Co. v. Corporation of Manchester*, 9 Jur. N. S. 266; *Pudsey Gas Co. v. Corporation of Bradford*, L. R. 15 Eq. 167; 42 L. J. Ch. 293.

Where a company, without parliamentary powers, were indicted for a nuisance under the Highway Acts, for laying their pipes in the streets, it was held that the fact of the company having obtained the leave of the local board, as surveyors of highways, so to do was no answer: *Hawkins v. Robinson*, 37 J. P. 662.

But a *contract* between a highway board and a company to grant the latter a license to open the highways within their jurisdiction, is not illegal, and does not necessarily contemplate the creation of a nuisance: *Edgware Highway Board v. Harrow District Gas Co.*, L. R. 10 Q. B. 92; 44 L. J. Q. B. 1.

It would seem that where the "undertakers" obtain a license, order, or Act for the supply of electricity for *public* purposes only, they would be indictable if they obstructed the public highway for the purpose of laying down a wire, &c., for a private supply: *Reg. v. Longton Gas Co.*, 29 L. J. M. C. 118.

See the 149th section of the Public Health Act, 1875, for penalty imposed upon any person who wilfully displaces or injures pavement, stones, &c., without the consent of the urban authority.

Not to enter on private land without consent.

VII. "Provided always, that nothing herein shall authorize or empower the undertakers to lay down or place any pipe or other works into, through, or against any building, or in any land, not dedicated to public use, without the consent of the owners and occupiers thereof; except that the undertakers may at any time enter upon and lay or place any new pipe in the place of an existing pipe in any land wherein any pipe hath been already lawfully laid down or placed in pursuance of this or the special Act or any other Act of Parliament, and may repair or alter any pipe so laid down."

Where a road passed alongside the plaintiff's premises, and

over certain arches occupied by him as cellars, and the defendants, a company constituted under a local Act incorporating this Act, in opening and breaking up the soil of the road, for the purpose of laying down gas pipes, damaged the arches, it was held, in an action for damages, that the arches were buildings within this section, and that the defendants could not justify breaking through them : *Thompson v. Sunderland Gas Co.*, 2 Ex. D. 429.

Occupation roads laid out for the convenience of the inhabitants of an estate are not thereby dedicated to public use : *Selby v. The Crystal Palace District Gas Co.*, 31 L. J. Ch. 595 ; 8 Jur. N.S. 830 ; *Curtis v. Emberry*, L. R. 7 Ex. 369.

There may, in law, be a dedication to the public of a right of way, such as a footpath across a field, subject to the right of the owner of the soil to plough it up in due course of husbandry, and to destroy all trace of it for the time : *Mercer v. Woodgate*, L. R. 5 Q. B. 26 ; 39 L. J. M. C. 21 ; *Arnold v. Blaker*, L. R. 6 Q. B. 433 ; 40 L. J. Q. B. 185 ; *Arnold v. Holbrook*, L. R. 8 Q. B. 96.

As to the presumption of dedication in case of a private road set out under an enclosure award, see *Reg. v. Inhabitants of Bradfield*, L. R. 9 Q. B. 552.

As to roads not repairable by the public as highways : see *Poole v. Huskisson*, 11 M. & W. 827 ; *Roberts v. Hunt*, 15 Q. B. 17.

VIII. "Before the undertakers proceed to open or break up any street, bridge, sewer, drain, or tunnel, they shall give to the persons under whose control or management the same may be, or to their clerk, surveyor, or other officer, notice in writing of their intention to open or break up the same, not less than three clear days before beginning such work, except in cases of emergency arising from defects in any of the pipes or other works, and then so soon as is possible after the beginning of the work, or the necessity for the same shall have arisen."

Notice to
be served
on persons
having
control,
&c., before
breaking
up streets
or opening
drains.

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See sect. 45 of the Gasworks Clauses Act, 1871, as to service of the notices, p. 62.

The consent of the authorities in whom the streets are vested is not necessary: *Dover Gaslight Co. v. Mayor of Dover*, 1 Jur. N. S. 812.

The word "person" is not included in the interpretation clause of the Electric Lighting, or incorporating Act, consequently it takes the meaning placed upon it in the incorporated Act: *Grieves v. Tofield*, 14 Ch. D. 571.

The Gasworks Clauses Act, 1847, provides that the word "person" shall include corporation, whether aggregate or sole.

Streets or drains not to be broken up except under superintendence of persons having control of the same.

IX. "No such street, bridge, sewer, drain, or tunnel shall, except in the cases of emergency aforesaid, be opened or broken up except under the superintendence of the persons having the control or management thereof, or of their officer, and according to such plan as shall be approved of by such persons or their officer, or in case of any difference respecting such plan, then according to such plan as shall be determined by two justices; and such justices may, on the application of the persons having the control or management of any such sewer or drain, or their officer, require the undertakers to make such temporary or other works as they may think necessary for guarding against any interruption of the drainage during the execution of any works which interfere with

If persons having the control, &c., fail to superintend, undertakers may perform the work without them.

any such sewer or drain: Provided always, that if the persons having such control or management as aforesaid, and their officer, fail to attend at the time fixed for the opening of any such street, bridge, sewer, drain, or tunnel, after having had such notice of the undertakers' intention as aforesaid, or shall not propose any plan for breaking up or opening the same, or shall refuse or neglect to superintend the operation, the undertakers may perform the work specified in such notice without the superintendence of such persons or their officer.

X. "When the undertakers open or break up the road or pavement of any street or bridge, or any sewer, drain, or

Street, &c., broken up

tunnel, they shall with all convenient speed complete the work for which the same shall be broken up, and fill in the ground and reinstate and make good the road or pavement, or the sewer, drain, or tunnel, so opened or broken up, and carry away the rubbish occasioned thereby, and shall at all times whilst any such road or pavement shall be so opened or broken up cause the same to be fenced and guarded, and shall cause a light sufficient for the warning of passengers to be set up and maintained against or near such road or pavement where the same shall be open or broken up, every night during which the same shall be continued open or broken up, and shall keep the road or pavement which has been so broken up in good repair for three months after replacing and making good the same, and for such further time, if any, not being more than twelve months in the whole, as the soil so broken up shall continue to subside."

See sect. 160 of the Public Health Act, 1875, which incorporates sects. 81-3 of the Towns Improvement Clauses Act, 1847, and *Wilson v. Mayor of Halifax*, L. R. 3 Ex. 114; 37 L. J. Ex. 44.

XI. "If the undertakers open or break up any street or bridge, or any sewer, drain, or tunnel, without giving such notice as aforesaid, or in a manner different from that which shall have been approved of or determined as aforesaid, or without making such temporary or other works as aforesaid when so required, except in the cases in which the undertakers are hereby authorized to perform such works without any superintendence or notice, or if the undertakers make any delay in completing any such work or in filling in the ground, or reinstating and making good the road or pavement, or the sewer, drain, or tunnel, so opened or broken up, or in carrying away the rubbish occasioned thereby, or if they neglect to cause the place where such road or pavement has been broken up to be fenced, guarded, and lighted, or neglect to keep the road or pavement in repair for the space

s. 12.
to be rein-
stated
without
delay.

Penalty for
delay in
reinstating
streets, &c.

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of three months next after the same is made good, or such further time as aforesaid, they shall forfeit to the persons having the control or management of the street, bridge, sewer, drain, or tunnel in respect of which such default is made, a sum not exceeding five pounds for every such offence, and they shall forfeit an additional sum of five pounds for each day during which any such delay as aforesaid shall continue after they shall have received notice thereof.

In case of
delay other
parties
may rein-
state and
recover the
expenses.

XII. "If any such delay or omission as aforesaid take place, the persons having the control or management of the street, bridge, sewer, drain, or tunnel in respect of which such delay or omission shall take place, may cause the work so delayed or omitted to be executed, and the expense of executing the same shall be repaid to such persons by the undertakers; and such expenses may be recovered in the same manner as damages are recoverable under this or the special Act.

"With respect to waste or misuse of the gas, or injury to the pipes and other works, be it enacted as follows:—

Penalty for
fraudu-
lently
using the
gas of the
under-
takers.

XVIII. "Every person who shall lay or cause to be laid any pipe to communicate with any pipe belonging to the undertakers without their consent, or shall fraudulently injure any such meter as aforesaid, or who, in case the gas supplied by the undertakers is not ascertained by meter, (shall use any burner other than such as has been provided or approved of by the undertakers, or of larger dimensions than he has contracted to pay for, or) shall keep the lights burning for a longer time than he has contracted to pay for, or who shall otherwise improperly use or burn such gas, or shall supply any other person with any part of the gas supplied to him by the undertakers, shall forfeit to the undertakers the sum of five pounds for every such offence, and also the sum of forty shillings for every day such pipe shall so remain, or such works (or burner) shall be so used, or such excess be so committed or continued, or such supply furnished; and the undertakers may take off the gas from the house and premises

of the person so offending, notwithstanding any contract which may have been previously entered into."

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As to stealing electricity, see sect. 23; stealing gas, see *Reg. v. White*, 22 L. J. M. C. 123; what constitutes one continuous taking: *Reg. v. Firth*, 38 L. J. M. C. 54. As to the Statute of Limitations as a defence to an action for fraudulently taking gas: *Imperial Gaslight and Coke Co. v. London Gaslight Co.*, 23 L. J. Ex. 303.

The word "meter" is not included in the interpretation clause, but the 14th section enables the undertakers to let for hire "any meter for ascertaining the quantity of gas consumed or supplied."

This section therefore makes it an offence to fraudulently injure any meter for ascertaining the quantity of electricity consumed or supplied.

XIX. "Every person who shall wilfully remove, destroy, or damage any pipe, pillar, post, or plug, lamp, or other work of the undertakers for supplying gas, or who shall wilfully extinguish any of the public lamps or lights, or waste or improperly use any of the gas supplied by the undertakers, shall for each such offence forfeit to the undertakers any sum not exceeding five pounds, in addition to the amount of the damage done.

Penalty for
wilfully
damaging
pipes.

XX. "Every person who shall carelessly or accidentally break, throw down, or damage any pipe, pillar, or lamp belonging to the undertakers, or under their control, shall pay such sum of money by way of satisfaction to the undertakers for the damage done, not exceeding five pounds, as any two justices or the sheriff shall think reasonable.

Satisfac-
tion for
accident-
ally da-
maging
pipes.

XL. "If the gasworks be in *England* or *Ireland*, the clauses of the Railways Clauses Consolidation Act, 1845, with respect to the recovery of damages not specially provided for, and of penalties, and to the determination of any other matter referred to justices shall be incorporated with this and the special Act; and if the gasworks be in *Scotland*, the clauses of the Railways Clauses Consolidation Act (*Scotland*), 1845,

Recovery
of penalties
and
damages.

s. 12. with respect to the recovery of damages not specially provided for, and to the determination of any other matter referred to the sheriff or to justices, shall be incorporated with this and the special Act, and such clauses shall apply to the gasworks and to the undertakers respectively, and shall be construed as if the word 'undertakers' had been inserted therein instead of the word 'company.'

This section is incorporated by the last paragraph of the 12th section of the Electric Lighting Act.

See 11 & 12 Vict. c. 43, s. 33, as to the powers of metropolitan police magistrates and stipendiary magistrates in other boroughs, &c.

(c) The following are the incorporated sections of the Gasworks Clauses Act, 1871 :

Penalty for
injuring
meters.

38. "Every person who wilfully, fraudulently, or by culpable negligence injures or suffers to be injured any pipes, meter, or fittings belonging to the undertakers, or alters the index to any meter, or prevents any meter from duly registering the quantity of gas supplied, or fraudulently abstracts, consumes, or uses gas of the undertakers, shall (without prejudice to any other right or remedy for the protection of the undertakers or the punishment of the offender) for every such offence forfeit and pay to the undertakers a sum not exceeding five pounds, and the undertakers may in addition thereto recover the amount of any damage by them sustained; and in any case in which any person has wilfully or fraudulently injured or suffered to be injured any pipes, meter, or fittings belonging to the undertakers, or altered the index to any meter, or prevented any meter from duly registering the quantity of gas supplied, the undertakers may also, until the matter complained of has been remedied, but no longer, discontinue the supply of gas to the person so offending (notwithstanding any contract previously existing); and the existence of artificial means for causing such alteration or prevention, or for abstracting, consuming, or using gas of undertakers, when such meter is under the custody or control

of the consumer, shall be *prima facie* evidence that such alteration, prevention, abstraction, or consumption, as the case may be, has been fraudulently, knowingly, and wilfully caused by the consumer using such meter.

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39. "In case any consumer of gas supplied by the undertakers leaves the premises where such gas has been supplied to him without paying the gas rent or meter rent due from him, the undertakers shall not be entitled to require from the next tenant of such premises the payment of the arrears left unpaid by the former tenant, unless such incoming tenant has undertaken with the former tenant to pay or exonerate him from the payment of such arrears."

Incoming
tenants not
liable to
pay arrears
of gas
rent, &c.

See *Sheffield Waterworks Co. v. Wilkinson*, 4 C. P. D. 410.

40. "If any person supplied with gas or with any gas meter or fittings by the undertakers neglects to pay to the undertakers the rent due for such gas or the rent or money due to the undertakers for the hire or fixing of such meter, or any expenses lawfully incurred by the undertakers in cutting off the gas from the premises of such person, the undertakers may recover the sum so due in like manner as a penalty under this Act."

Recovery
of rents,
&c.

See s. 12 of Electric Lighting Act, which enacts that sums recoverable under the provisions of this section shall not be recoverable as penalties, but may be recovered summarily as civil debts. See Summary Jurisdiction Act, 1879, s. 35.

41. "Whenever any person neglects to pay any rent or sum due and payable by him to the undertakers, the undertakers may recover the same, with full costs of suit, in any court of competent jurisdiction, and the remedy of the undertakers under this enactment shall be in addition to their other remedies for the recovery of such rent or sum."

Recovery
of sums
due to
undertakers.

As to enforcing against the goods of a liquidating debtor a distress warrant for a sum due for gas supplied, see *In re Roberts*, W. N., 1877, p. 180. The undertakers have no preferential claim in the event of the bankruptcy of the debtor: *Ex parte Hill*, 6 Ch. D. 63.

S. 18.

Contents
of sum-
mons or
warrants.

Service of
notices by
under-
takers.

Liability to
gas rent
not to dis-
qualify
Justices
from
acting.

Restriction
on break-
ing up of
private
streets,
railways,
and tram-
ways.

42. "Any summons or warrant issued for any of the purposes of this Act may contain in the body thereof or in a schedule thereto several names and several sums.

45. "Every notice which the undertakers are by this Act required to serve upon any person shall be served by being delivered to the person for whom it is intended, or by being left at his usual or last-known place of abode, or sent by post addressed to such persons; or if such person or his address be not known to the undertakers, and cannot after due inquiries be found or ascertained, then by being affixed for three days to some conspicuous part of the premises to which such notice relates."

As to notices relating to telegraph wires, &c., under the 26th section of the Electric Lighting Act, see the 12th section of the Telegraph Act, 1878, printed in the Appendix, p. 137.

46. "No justice or judge of any County Court or Quarter Sessions shall be disqualified from acting in the execution of this Act by reason of his being liable to the payment of any *gas rent* or other charge under this Act."

13. Nothing in this Act or in any Act incorporated therewith shall authorise or empower the undertakers to break up any street which is not repairable by such local authority, or any railway or tramway, without the consent of the authority, company, or person by whom such street, railway, or tramway is repairable, unless in pursuance of special powers in that behalf inserted in the license, order, or special Act, or with the written consent of the Board of Trade, and the Board of Trade shall not in any case insert any such special powers in any license or provisional order, or give any such consent until notice has been given to such authority, company, or person, by advertisement or otherwise, as the Board of Trade may

direct, and an opportunity has been given to such authority, company, or person to state any objections they may have thereto.

s. 14.

Board of Trade Rule VI. provides that these must be deposited with the memorial:

(2.) A list of the streets not repairable by a local authority and of the railways and tramways (if any) which the applicants propose to take powers to break up.

(7.) Where the undertakers under any license, order, or special Act desire the consent of the Board of Trade to enable them to break up any street not repairable by a local authority, or any railway or tramway which they are not empowered to break up under such license, order, or special Act, the memorial must specially request such consent and must describe accurately the street, railway, or tramway which they propose to acquire power to break up.

See also note (b) to the 12th section, p. 52.

As the breaking up of a street without the necessary authority is an illegal act which tends to the injury of the public, the Attorney-General can maintain an action on behalf of the public to restrain the commission of such act *without adducing any evidence of actual injury to the public*, and in such a case an injunction will be granted with costs: *Attorney-General v. Shrewsbury (Kingsland) Bridge Co.*, 21 Ch. D. 752.

14. Notwithstanding anything in this Act or in any Act incorporated therewith, the undertakers shall not be authorised to place any electric line above ground, along, over, or across any street (a), without the express consent of the local authority, and the local authority may require the undertakers to forthwith remove any electric line placed by them contrary to the provisions of this section, or may themselves remove the same, and recover the

Restrictions as to
above-
ground
works.

S 15. expenses of such removal from the undertakers in a summary manner; and where any electric line has been placed above ground by the undertakers in any position, a court of summary jurisdiction (b), upon complaint made, if they are of opinion that such electric line is or is likely to become dangerous to the public safety (c), may, notwithstanding any such consent as aforesaid, make an order directing and authorising the removal of such electric line by such person and upon such terms as they may think fit.

(a) See note (b) to the 32nd section, p. 85.

(b) See the 34th section of the Summary Jurisdiction Act, 1879 (42 & 43 Vict. c. 49).

(c) With regard to the placing lines above ground, the evidence given before the Committee went to show that overhead wires were both dangerous and objectionable on other grounds. Mr. Duncombe stated that overhead wires had been tried at Liverpool and proved an entire failure. The company were unable to complete their contract as people interfered with them, threw material over them, and tied them together. Sir J. Heron was of opinion that they were very dangerous, as also was Mr. Rayner, who stated that cases had already occurred where they had hampered the movements of fire escapes.

Power to
under-
takers to
alter posi-
tion of
pipes and
wires.

15. Subject to the provisions of this Act and of the license, order, or special Act authorising them to supply electricity, and to any bye-laws made under this Act (a), the undertakers may alter the position of any pipes or wires being under any street or place authorised to be broken up by them which may interfere with the exercise of their powers under this Act on previously making or securing such compensation to the owners of such pipes

or wires, and on complying with such conditions as to the mode of making such alterations as may before the commencement of such alterations be agreed upon between the undertakers and owners, or in case of difference as may be determined in manner prescribed by the license or provisional order authorising the undertakers to supply electricity, or where no such manner is prescribed as may be determined by arbitration (*b*), and any local or other public authority, company, or person may in like manner alter the position of any electric lines or works of the undertakers, being under any such street or place as aforesaid, which may interfere with the lawful exercise of any powers vested in such local or other public authority, company, or person in relation to such street or place, subject to the like provisions, conditions, and restrictions as are in this section contained with reference to the alteration of the position of any pipes or wires by the undertakers.

(*a*) See sect. 6, p. 19, and note (*c*), p. 20.

(*b*) See sect. 28 and note (*a*), p. 81.

16. If at any time after the undertakers have placed any works under, in, upon, over, along or across any canal, any person having power to construct docks, basins or other works upon any land adjoining to or near such canal, constructs any dock, basin or work on such land, but is prevented by the works of the undertakers from forming a communication for the convenient passage of vessels with or without masts between such dock, basin or other work, and such canal; or if the business of such dock, basin or other work is interfered with by reason or

Clause for
protection
of canals.

s. 17. in consequence of any such works of the undertakers, then the undertakers at the request of such person, and on having reasonable facilities afforded them by him for placing works round such dock, basin or other work, under, in, upon, over, along or across land belonging to or under his control, shall remove and place their works accordingly. If any dispute arises between the undertakers and such person as to the facilities to be afforded to the undertakers, or as to the direction in which the works are to be placed, it shall be determined by arbitration (a).

(a) See sect. 28 and note (a), p. 81.

Compensa-
tion for
damages.

17. In the exercise of the powers in relation to the execution of works given them under this Act, or any license, order, or special Act (a), the undertakers shall cause as little detriment and inconvenience and do as little damage as may be (b), and shall make full compensation to all bodies and persons interested for all damage sustained by them by reason or in consequence of the exercise of such powers, the amount and application of such compensation in case of difference to be determined by arbitration (c).

(a) A provision directing "undertakers" to pay compensation for damage occurring in a local and personal Act, must be regarded as a contract between the parties, whether made by their mutual agreement, or forced upon them by the legislature. Per Lord Watson in *Countess of Rothes v. Kirkcaldy Waterworks Commissioners*, L. R. 7 App. Cas. p. 707.

(b) The words "do as little damage as may be," do not apply to what is done, but to the manner of doing it—the *modus*

operandi: Reg. v. East and West India Docks and Birmingham Junction Ry. Co., 22 L. J. Q. B. 380.

S. 18.

(c) See sect. 28, note (a), p. 81.

18. The undertakers shall not be entitled to prescribe any special form of lamp or burner to be used by any company or person, or in any way to control or interfere with the manner in which electricity supplied by them under this Act, and any license, order, or special Act is used: Provided always that no local authority, company, or person shall be at liberty to use any form of lamp or burner or to use the electricity supplied to them for any purposes, or to deal with it in any manner so as to unduly or improperly interfere with the supply of electricity supplied to any other local authority, company, or person by the undertakers, and if any dispute or difference arises between the undertakers and any local authority, company, or person entitled to be supplied with electricity under this Act, or any license, order or special Act, as to the matters aforesaid, such dispute or difference shall be determined by arbitration (a).

Under-takers not to pre-scribe spec-ial form of lamp or burner.

(a) See sect. 28, note (a), p. 81.

19. Where a supply of electricity is provided in any part of an area for private purposes, then, except in so far as is otherwise provided by the terms of the license, order, or special Act authorising such supply, every company or person within that part of the area shall, on application, be entitled to a supply on the same terms on which any other company or person in such part of the area is entitled under similar circumstances to a corresponding supply (a).

Obligation on under-takers to supply electricity.

S. 20.

(a) If any differences should hereafter arise between the "undertakers" and an "applicant" as to the supply of electricity for a private purpose, or upon the "terms" of such supply, the question arises how are such differences to be determined. No appeal is given to the Board of Trade to settle the terms, or to say whether the circumstances in two or more cases are "similar" within the meaning of this section. In the event of the undertakers refusing to supply electricity, or to do so on reasonable terms, no penalties can be recovered against them under this Act, neither can they be proceeded against by action for damages. It is certain that the Courts will inquire into a question of "terms" or "similar circumstances" by way of mandamus or injunction.

The apparent defect of this section is, however, removed by sect. 3, sub-sect. 8, and sect. 4 of the Act, which enables the Board of Trade to introduce into licenses and provisional orders such conditions under which a supply of electricity is to be compulsory or permissive, and for enforcing the performance by the licensees of their duties in relation to such supply, as the Board of Trade think expedient.

In the exercise of this power some provision should be introduced into all licenses and provisional orders for the determination of such differences by arbitration as are above referred to.

The 28th section of the Act, p. 81, seems to contemplate that the license, order, or special Act will direct certain matters to be determined by arbitration.

Charges
for elec-
tricity.

20. The undertakers shall not, in making any agreements for a supply of electricity, show any undue preference to any local authority, company, or person, but, save as aforesaid, they may make such charges for the supply of electricity, as may be agreed upon, not exceeding the limits of price imposed by or in pursuance of the license,

order or special Act authorising them to supply electricity (a). s. 21.

(a) See note (d) to the 6th section, p. 24, and note (a) to the 28th section, p. 81.

21. If any local authority, company, or person neglect to pay any charge for electricity or any other sum due from them to the undertakers in respect of the supply of electricity to such local authority, company, or person, the undertakers may cut off such supply, and for that purpose may cut or disconnect any electric line or other work through which electricity may be supplied, and may, until such charge or other sum, together with any expenses incurred by the undertakers in cutting off such supply of electricity as aforesaid, are fully paid, but no longer, discontinue the supply of electricity to such local authority, company, or person (a).

Recovery
of charges,
&c.

(a) See note (c) to the 12th section, p. 61.

22. Any person who unlawfully and maliciously cuts or injures any electric line or work with intent to cut off any supply of electricity shall be guilty of felony, and be liable to be kept in penal servitude for any term not exceeding five years, or to be imprisoned with or without hard labour for any term not exceeding two years; but nothing in this section shall exempt a person from any proceeding for any offence which is punishable under any other provision of this Act (a), or under any other Act, or at common law, so that no person be punished twice for the same offence.

Injuring
works with
intent to
cut off
supply of
electricity.

s. 22.

(a)—A. The other provisions "of this Act" would appear to be :

- (1.) Proceedings for maliciously or fraudulently abstracting, &c., electricity under sect. 23, p. 71 : see *Reg. v. White*, 22 L. J., M. C. 123.
- (2.) Proceedings under the incorporated sections of the Gasworks Clauses Act, 1847, relating to the waste or misuse of electricity, or injury to the wires and other works. See note (b) to the 12th section, p. 58. And under the 38th section of the Gasworks Clauses Act, 1871 : see note (c) to the 12th section, p. 60.

B. The other provisions "under any other Act" are :

- (1.) Larceny of any wire or other property of the undertakers.
- (2.) Malicious mischief.

15th section of the 24 & 25 Vict. c. 97, provides that "whosoever shall unlawfully and maliciously cut, break, or destroy, or damage with intent to destroy or to render useless, . . . any machine or engine, or any tool or implement, whether fixed or moveable, prepared for or employed in any manufacture whatsoever (except certain manufactures not material to the present case) shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the Court, to be kept in penal servitude for any term not exceeding seven years and not less than five years—or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement, and, if a male under the age of sixteen years, with or without whipping." As to what is evidence of an intent to render useless, see *Reg. v. Fisher*, L. R. 1 C. C. 7. As to the meaning of the words "any machine or engine whether fixed or moveable" see *Rex v. Mackarell*,

4 C. & P. 448; *Rex v. Fidler*, Sh. 449; *Rex v. Bartlett*, 2 Deacon's Cr. L. 1517. As to the words "prepared for or employed in any manufacture," see *Reg. v. Penny*, Arch. Cr. Pr. 454.

s. 23.

C. At common law every attempt to commit a felony (whether at common law or created by statute: *Reg. v. Brodrick*, 7 C. & P. 795), or misdemeanor, is itself a misdemeanor.

23. Any person who maliciously or fraudulently abstracts, causes to be wasted or diverted, consumes, or uses any electricity shall be guilty of simple larceny and punishable accordingly (a).

Stealing
electricity.

(a) See sect. 22 and note (a) thereto, p. 69.

24. Any officer appointed by the undertakers may at all reasonable times enter any premises to which electricity is or has been supplied by the undertakers, in order to inspect the electric lines, meters, accumulators, fittings, works, and apparatus for the supply of electricity belonging to the undertakers, and for the purpose of ascertaining the quantity of electricity consumed or supplied (a), or where a supply of electricity is no longer required, or where the undertakers are authorised to take away and cut off the supply of electricity from any premises, for the purpose of removing any electric lines, accumulators, fittings, works, or apparatus belonging to the undertakers, repairing all damage caused by such entry, inspection, or removal.

Power to
enter lands
or premises
for ascer-
taining
quantities
of elec-
tricity con-
sumed, or
to remove
fittings,
&c.

(a) From the nature of electricity and the electric current it may appear to those unfamiliar with the subject that the

S. 24. use of the word "quantity" as applied to electricity is inappropriate. If the word were used in its ordinary sense, and in a manner applicable to gas or water, or any other material substance, such would certainly be the case. But to electricians the word "quantity" as applied to electricity has a perfectly precise and determinate meaning. Electricity is, of course, no form of matter, neither, according to the view of some physicists, is it a form of energy, but rather its vehicle. What is meant is illustrated by a comparison made by M. Marcel Deprez between a current of electricity passing through a wire and a current of water passing through a pipe. The column of water under pressure is not a form of energy, but only a means of transmitting it. In the ordinary meaning of the word, therefore, there is no such thing as "quantity" of electricity, and its scientific meaning must be inquired into.

For this purpose it is necessary to become familiar with the following primary ideas and terms :

(1.) *Electrical Potential*, or the electric condition of a body. This will best be understood by comparing it with potential in mechanics, which means the power of doing work, as for instance a weight lifted from the surface of the earth, which is said to be then in a position of potential advantage, because in the act of falling it is capable of doing work.

If the electrical potential of two bodies A. and B. are different, when they are connected together by a conductor, a current will flow from the body of higher to that of lower potential, and will continue to do so until the potentials are equalized, just as in the case of water flowing through a pipe the current stops as soon as the two ends of the pipe are on the same level.

(2.) *Electromotive force* may be defined as that force which tends to the transfer of electricity from one point to another in a conductor. In order to measure a force a unit is necessary. The unit adopted for measuring electromotive force

is called a *Volt*, and may be taken as being approximately that of a Daniell's cell, such as that used as a standard at the London General Post Office.

(3.) *Resistance* is the opposition which a body offers to the flow of electricity. The resistance of a circuit varies directly as its length and inversely as its cross section. The resistance of a telegraph wire of galvanised iron, 100 metres in length and 4 millimetres in diameter, or by a column of mercury 1·05 metres long and 1 square millimetre section at the temperature zero centigrade, is taken as the unit of measurement, and is called the *Ohm*.

(4.) *Conductivity* is the facility which a body offers to the flow of electricity.

(5.) *Intensity* is the strength of a current, and is directly proportional to the electromotive force, and inversely proportional to the resistance of the circuit. The intensity of the current is the same at all parts of the circuit, and is directly proportional to the chemical action it is competent to set up. This is, as will be seen hereafter, of great importance, and is the principle upon which a mode of measurement of electricity, adopted for commercial purposes, is based.

The intensity capable of precipitating 4 grammes of silver per hour, or 1·19 grammes of copper, or of decomposing ·09378 grammes of water per second, is taken as the unit, and is now called the *Ampère*; it was, however, formerly called the *Weber*. The relation between the units of electromotive force, resistance and intensity is expressed thus :

$$\text{Intensity} = \frac{\text{Electromotive force}}{\text{Resistance}} \text{ or } \text{Ampère} = \frac{\text{Volt.}}{\text{Ohm.}}$$

(6.) *Quantity* is the product of intensity by the length of time it lasts. The unit of quantity is that given by an ampère in a second, and is called the *Coulomb*.

(7.) *Capacity* is the quantity of electricity necessary to raise the potential of a conductor from zero to unity.

The quantity is directly proportional to the electromotive

S. 24. force, and the capacity of a body for accumulating electricity. Therefore

$$\text{Quantity} = \text{Capacity} \times \text{Electromotive force}$$

$$\text{and Capacity} = \frac{\text{Quantity}}{\text{Electromotive force}} \text{ or}$$

$$\text{Unit of capacity} = \frac{\text{Coulomb}}{\text{Volt.}}$$

In 1873 a Committee of the British Association adopted a system of measurement based upon the three units of length, mass, and time, represented by the centimetre, the gramme, and the second.

This system is known by the symbol C. G. S., the first letter of each of the three units.

The relation existing between the centimetre and the gramme is this, that a cubic centimetre of distilled water at 4°C. (the temperature of maximum density) weighs one gramme.

The C. G. S. unit of *force* is that force which, acting on a gramme of matter for a second, generates a velocity of one centimetre a second. This unit is called the *Dyne*.

The C. G. S. unit of work is the work done by the *dyne* in passing through one centimetre, and is called the *erg*.

The C. G. S. unit of power is the power of doing work at the rate of one erg per second.

The above units of electrical measurement may be thus expressed in terms of the C. G. S. unit, or, in other words, the practical system and the absolute system stand in the following relation :—

The <i>Ohm</i>	or unit of resistance	= 10 ⁹
„ <i>Volt</i>	„ electromotive force	= 10 ⁸
„ <i>Ampère</i>	„ intensity or current	= 10 ¹
„ <i>Coulomb</i>	„ quantity	= 10 ¹
(Formerly called the <i>Weber</i> .)		
„ <i>Farrad</i>	„ capacity	= 10 ⁹

For the purpose of constructing a meter suitable for the

measurement of "electricity consumed or supplied," advantage is taken of the law, already mentioned, that the intensity or current is the same in all parts of the circuit, and that the ratio between the intensity of the current, and the chemical action set up by it, is constant.

Mr. Edison has constructed his electric counters upon this principle, and has used them extensively in New York as house meters for the purpose of measuring the "quantity" of electricity passing from the central station to the several consumers.

The apparatus consists of two electrolytic cells so arranged as to form a shunt to the electric current. The electrolytic cells contain a solution of zinc sulphate, the electrodes themselves consisting of amalgamated zinc plates. The electrolytic cells are short-circuited in such a manner that the shunt of one has four times the resistance of the other, and consequently one electrode will, in a given time, have four times as much zinc deposited upon it by the chemical action of the electric current as the other. These electrodes are taken away by the company's inspectors and carefully weighed. The electrode on which the smallest quantity of zinc is deposited being allowed to remain in action for thirteen weeks, and the other for four weeks, between each weighing. By this arrangement the company are able by means of the thirteen weeks' deposit on the slowly acting cell to keep a check, by means of superior inspectors, upon the results derived from the weighing of the four weeks' electrode by their ordinary inspectors.

By the chemical action set up in the cells by the electric current, zinc is dissolved off one electrode of each pair and deposited on the other. The quantity of zinc so deposited is directly proportional to the "quantity" of electricity passing through the instrument.

It has already been pointed out that the current of electricity that will precipitate four grammes of silver per hour is used as the unit of measurement, and is called the *ampère* or

S. 25.

Weber. The weight of zinc deposited upon the electrode by the same current in the same time is found to be 1198·8 milligrammes.

The number of *Webers* that have passed through the cells is, therefore, ascertained by dividing the increase in weight of the electrode expressed in milligrammes by 1198·8.

As, however, the whole of the electricity passing through the cells is converted into chemical action, and consequently lost, both to the supplying company and to the consumer, only a small fraction of the main current is deflected by a branch circuit for the purpose of measurement. This is about $\frac{1}{800}$ of the whole. The number of *Webers* indicated by the weighing of the electrodes has therefore to be multiplied by 800.

The number of *Webers* or *ampères* used by the consumer is thus ascertained, and he is charged accordingly.

The result therefore is "that the quantity of electricity consumed or supplied," as spoken of in the 24th section of the Electric Lighting Act, may be said to mean the number of *Webers* or *ampères* consumed or supplied.

A meter founded upon the same principle as the above is spoken of by Mr. Johnson in his evidence before the committee on electric lighting, in which he uses only $\frac{1}{800}$ of the main current for the purpose of measurement.

This would, of course, be more economical to the supplying company, but at the same time proportionally more liable to error.

The above meter is given by way of example only, and others have been invented, and their number will doubtless be increased.

In these other electric units of measurement may be employed, and then the "quantity" of electricity supplied will be ascertained by reference to the particular unit selected.

Electric
lines, &c.,
not to be

25. Where any electric lines, meters, accumulators, fittings, works, or apparatus belonging to the undertakers

are placed in or upon any premises not being in the possession of the undertakers for the purpose of supplying electricity under this Act, or any license, order, or special Act, such electric lines, meters, accumulators, fittings, works, or apparatus shall not be subject to distress or to the landlord's remedy for rent of the premises where the same may be, nor to be taken in execution under any process of a court of law or equity, or any proceedings in bankruptcy against the person in whose possession the same may be (a).

s. 26.

subject to
distress in
certain
cases.

(a) The electric lines, meters, accumulators, fittings, works or apparatus are chattels not fixtures: *Darby v. Harris*, 1 Q. B. 894; *Hellawell v. Eastwood*, 6 Exch. 311; *Reg. v. Lee (Inhabitants)*, L. R. 1 Q. B. 241; therefore, irrespective of the words of this section they would have been liable to distress by the landlord: *Simpson v. Hartopp*, 1 Smith, L. C. 368. The words of the section only apply to cases in which the electric lines, meters, &c., are on the premises of persons other than the undertakers.

26. No alteration in any telegraph line of the Postmaster-General shall be made by the undertakers except subject to the provisions of the Telegraph Act, 1878.

The undertakers shall not in the exercise of the powers conferred by this Act, or by any license, order, or special Act, lay down any electric line or do any other work for the supply of electricity whereby any telegraphic line of the Postmaster-General is or may be injuriously affected, and before any such electric line is laid down or work is done within ten yards of any part of a telegraphic line of the Postmaster-General (other than repairs or the laying

Provisions
for protec-
tion of the
Post-
master-
General.
41 & 42
Vict. c. 76.

s. 26. of connexions with mains where the direction of the electric lines so laid down crosses the line of the Postmaster-General at right angles at the point of shortest distance and continues the same for a distance of six feet on each side of such point) the undertakers or their agents not more than twenty-eight nor less than seven clear days before commencing such work shall give written notice to the Postmaster-General specifying the course and nature of the work, including the gauge of any electric lines, and the undertakers and their agents shall conform with such reasonable requirements either general or special as may from time to time be made by the Postmaster-General for the purpose of preventing any telegraphs of the Postmaster-General from being injuriously affected by the said work.

Any difference which arises between the Postmaster-General and the undertakers or their agents with respect to any requirements so made, shall be determined by arbitration.

In the event of any contravention or of wilful non-compliance with this section by the undertakers or their agents the undertakers shall be liable to a fine not exceeding ten pounds for every day during which such contravention or non-compliance continues, or if the telegraphic communication is wilfully interrupted, not exceeding fifty pounds for every day on which such interruption continues.

Provided that nothing in this section shall subject the undertakers or their agents to a fine under this section, if they satisfy the court having cognizance of the case that the immediate execution of the work was required to

avoid an accident, or otherwise was a work of emergency, and that they forthwith served on the postmaster or sub-postmaster of the postal telegraph office nearest to the place where the work was done a notice of the execution thereof, stating the reason for executing the same without previous notice.

For the purposes of this section a telegraphic line of the Postmaster-General shall be deemed to be injuriously affected by a work if telegraphic communication by means of such line is, whether through induction or otherwise, in any manner affected by such work, or by any use made of such work.

For the purposes of this section, and subject as therein provided, sections two, seven, eight, nine, ten, eleven, and twelve of the Telegraph Act, 1878, shall be deemed to be incorporated with this Act, as if the undertakers were undertakers within the meaning of those sections, without prejudice nevertheless to any operation which the other sections of the said Act would have had if this section had not been enacted (a).

(a) See Telegraph Act, 1878, and notes thereon in the Appendix, p. 131.

27. Where any undertakers are authorised by a provisional order or special Act to supply electricity within any area, any local authority within whose jurisdiction such area or any part thereof is situated may, within six months after the expiration of a period of twenty-one years, or such shorter period as is specified in that behalf in the application for the provisional order or in the special Act, from the date of the passing of the Act con-

Purchase
of under-
taking by
local
authority.

s. 27. firming such provisional order, or of such special Act, and within six months after the expiration of every subsequent period of seven years, or such shorter period as is specified in that behalf in the application for the provisional order or in the special Act, by notice in writing (a) require such undertakers to sell, and thereupon such undertakers shall sell to them their undertaking, or so much of the same as is within such jurisdiction, upon terms of paying the then value of all lands, buildings, works, materials, and plant of such undertakers suitable to and used by them for the purposes of their undertaking within such jurisdiction, such value to be in case of difference determined by arbitration : Provided that the value of such lands, buildings, works, materials, and plant shall be deemed to be their fair market value at the time of the purchase, due regard being had to the nature and then condition of such buildings, works, materials, and plant, and to the state of repair thereof, and the suitability of the same to the purposes of the undertaking, and, where a part only of the undertaking is purchased, to any loss occasioned by severance ; but without any addition in respect of compulsory purchase or of goodwill or of any profits which may or might have been or be made from the undertaking, or of any similar considerations. The Board of Trade may determine any other questions which may arise in relation to such purchase, and may fix the date from which such purchase is to take effect, and from and after the date so fixed, or such other date as may be agreed upon between the parties, all lands, buildings, works, materials, and plant so purchased as aforesaid shall vest in the local authority which has made

the purchase, freed from any debts, mortgages, or similar obligations of such undertakers or attaching to the undertaking, and the powers of such undertakers in relation to the supply of electricity under this Act or such provisional order or special Act as aforesaid within such area or part thereof as aforesaid shall absolutely cease and determine, and shall vest in the local authority aforesaid (b).

(a) See the 45th section of the Gasworks Clauses Act, 1871, in note (c) to the 12th section, p. 62.

(b) A precedent for this section is to be found in the 43rd section of the Tramways Act, 1870 (33 & 34 Vict. c. 78).

28. Where any matter is by this Act (a), or any license, order, or special Act, directed to be determined by arbitration, such matter shall, except as otherwise expressly provided, be determined by an engineer or other fit person to be nominated as arbitrator by the Board of Trade on the application of either party, and the expenses (b) of the arbitration shall be borne and paid as the arbitrator directs.

Any license or provisional order granted under this Act shall be deemed to be a special Act within the meaning of the Board of Trade Arbitrations, &c., Act, 1874.

37 & 38
Vict. c. 40.

(a) The subjects to be referred to arbitration,

A. under "this Act" are

1. Under sect. 15, disputes as to alteration of position of pipes and wires, p. 64.
2. Under sect. 16, disputes as to interference with canals, p. 65.
3. Under sect. 17, amount and application of compensation for damages generally, p. 66.
4. Under sect. 18, disputes as to lamps and burners, &c., p. 67.

S. 29.

5. Under sect. 26, disputes between undertakers and the Postmaster-General, p. 77.

6. Under sect. 27, value of plant, &c., on compulsory purchase, p. 79.

B. Under the Lands Clauses Consolidation Act, 1845 :

1. Under sect. 9, purchase-money or compensation to be paid to those under disability to sell, p. 49.

2. Under sect. 94, disputes as to value of land to be bought by undertakers.

3. Under sect. 105, disputes between persons interested in common land and promoters.

4. By sect. 114, when mortgage is paid before the stipulated time.

5. By sect. 124, compensation for lands subsequently purchased.

6. By sect. 130, as to price in the case of persons being entitled to pre-emption.

(b) See sect. 3 of the Board of Trade Arbitration Act, 1874, Appendix, p. 128.

Power for
Board of
Trade to
relieve gas
under-
takers
from obli-
gation to
supply gas
in certain
cases.

29. Where a supply of electricity is authorised in any area by any license, order, or special Act, and a supply of gas by any gas undertakers is also authorised within such area or any part thereof by any provisional order or special Act under the provisions of which such gas undertakers are under any general or limited obligation to supply gas upon demand, the Board of Trade may, upon the application of such gas undertakers, inquire into the circumstances of the case, and if they are satisfied that any specified part of such area is sufficiently supplied with electric light, and that the supply of gas in such specified part has ceased to be remunerative to the gas undertakers, and that it is just that such gas undertakers should be relieved from the obligation to supply

gas upon demand as aforesaid, the Board of Trade may in their discretion make an order relieving the gas undertakers from such obligation, within such specified part of such area, either wholly or in part, and upon such terms and conditions as they may think proper; and from and after the date of such order such gas undertakers shall be so relieved accordingly. All expenses of the Board of Trade in connexion with any such inquiry or order shall be borne and paid by the gas undertakers upon whose application the inquiry or order was made (a).

(a) The obligations of gas companies are regulated by the following sections of the Gasworks Clauses Act, 1871 :

11. "The undertakers shall, upon being required so to do by the owner or occupier of any premises situate within twenty-five yards from any main of the undertakers, or such other distance as may be prescribed, give and continue to give a supply of gas for such premises, under such pressure in the main as may be prescribed, and they shall furnish and lay any pipe that may be necessary for such purpose, subject to the conditions following (the conditions are unimportant to the point now under consideration).

24. "The undertakers shall supply gas to any public lamps within the distance of fifty yards from any of the mains of the undertakers in such quantities as the local authority of each district or the trustees of any turnpike road or any highway board within the limits of the special Act may from time to time require to be supplied, and the price to be charged by the undertakers and to be paid to them for all gas so supplied shall be settled by agreement between the local authorities and the undertakers, and in case of difference by arbitration, regard being had to the circumstances of the case and the prices charged to private consumers in the district."

See also sects. 150, 161 of Public Health Act, 1875.

s. 30.

As to the recovery of penalties from the undertakers for the neglect to supply gas: see sect. 36 of the Gasworks Clauses Act, 1871, and *Commercial Gas Co. v. Scott*, L. R. 10 Q. B. 400; 44 L. J. Q. B. 215.

Annual report by Board of Trade.

30. Not later than the first day of July in each year the Board of Trade shall lay before both Houses of Parliament a report respecting the applications to and proceedings of the Board of Trade under this Act during the year then last past.

Definition of local authority, &c.

31. In this Act, unless the context otherwise requires, the expressions "local authority" and "local rate" mean, as respects each district set forth in the first column of the schedule to this Act annexed, the authority and rate mentioned opposite to that district in the second and third columns of that schedule; and such schedule, and the notes appended thereto, shall be of the same validity as if enacted in the body of the Act (a).

(a) See schedule and notes thereto, p. 89.

Interpretation.

32. In this Act, unless the context otherwise requires—

The expression "electric line" means a wire or wires, conductor, or other means used for the purpose of conveying, transmitting, or distributing electricity with any casing, coating, covering, tube, pipe, or insulator enclosing, surrounding, or supporting the same, or any part thereof, or any apparatus connected therewith for the purpose of conveying, transmitting, or distributing electricity or electric currents:

The expression "works" means and includes electric lines, also any buildings, machinery, engines, works,

matters, or things of whatever description required to supply electricity and to carry into effect the object of the undertakers under this Act:

S. 32.

The expression "company" means any body of persons corporate or unincorporate:

The expression "Lands Clauses Acts" means the Lands Clauses Consolidation Acts, 1845, 1860, and 1869 (a):

8 & 9 Vict.
c. 18.
23 & 24
Vict.
c. 106.
32 & 33
Vict. c. 18.

The expression "street" (b) includes any square, court, or alley, highway, lane, road, thoroughfare, or public passage, or place, within the area in which the undertakers are authorised to supply electricity by this Act or any license, order, or special Act:

The expression "telegram" has the same meaning as in the Telegraph Act, 1869.

32 & 33
Vict. c. 73.

(a) See note (a), p. 45.

(b) As to the *prima facie* meaning of the word "street," see *Galloway v. Corporation of London*, 35 L. J. Ch. 477; *London, Chatham, and Dover Ry. Co. v. Corporation of London*, 19 L. T. (N.S.) 250.

In the above definition it is very clearly stated what is to be included in "street," but upon any question arising as to whether any place not included in the above definition is a street, or as to what is included in the words of the above definition, the law with regard to the interpretation of street will be found in the following cases:—In *Curtis v. Emberry*, (L. R. 7 Ex. 369) it was held that a piece of ground belonging to a railway company, adjoining the railway station and separated from the highway only by a gutter, which was used as an approach to the station, was not a street. In *Cari v. Storey* (L. R. 4 Ex. 319) it was held that the terminus of a railway company was not a public street or road. In *Nutter v. The Accrington Board of Health* (4 Q. B. D. 375), where by

s. 33.

the interpretation clause "street" applied to and included any highway (not being a turnpike road) it was held that a highway which was also a turnpike road was included in the word street. In *Le Neve v. Vestry of Mile End Old Town* (8 E. & B. 1032) a piece of ground between the paved public footway and public carriage-way was held not to be a street. In *Beg. v. Vestry of Islington* (E. B. & E. 743) an unfinished road, private property, not dedicated to the public, containing inhabited houses along part of it, communicating with another road containing houses at long intervals was held not to be a street. A *cul de sac* was held to be a street in *Souch v. East London Ry. Co.*, L. R. 16 Eq. 108.

When a question arises as to whether any place is a "street" within the above definition, it is a question of law for the Court to decide, not of fact: *Hobbs v. Dance*, L. R. 9 C. P. 30. Where, however, the justices found a road to be a "street," the Court refused to interfere with their decision, considering the question to be one of fact: *Newman v. Baker*, 8 C. B. (N.S.) 200; *Reg. v. Tuford*, 33 L. J. (M.C.) 122.

As to what is a new street, see *Pound v. Plumstead Board of Works*, L. R. 7 Q. B. 183; *Vestry of the Parish of St. Mary, Islington v. Barrett*, L. R. 9 Q. B. 282.

For the protection of mines.

33. Nothing in this Act shall limit or interfere with the rights of any owner, lessee, or occupier of any mines or minerals lying under or adjacent to any road along or across which any electric line shall be laid to work such mines and minerals.

See sect. 344 of the Public Health Act, 1875, and *In re Corporation of Dudley and Earl of Dudley's Trustees*, 8 Q. B. D. 86; 51 L. J. Q. B. 121.

Provision as to general Acts.

34. Nothing in this Act shall exempt the undertakers or their undertaking from the provisions of any general

Act relating to the supply of electricity which may be passed in this or any future session of Parliament. S. 35.

35. Nothing in this Act or in any license, order, or special Act, shall affect the exclusive privileges conferred upon the Postmaster-General by the Telegraph Act, 1869, or authorise or enable any local authority, company, or person to transmit any telegram or to perform any of the incidental services of receiving, collecting, or delivering telegrams, or give to any local authority, company, or person, any power, authority, or facility of any kind whatever, in connexion with the transmission of telegrams, or the performance of any of the incidental services of receiving, collecting, or delivering telegrams.

Saving for
privileges
of Post-
master-
General.

See *Atty.-Gen. v. Edison Telephone Co.*, 6 Q. B. D. 244.

As to Scotland.

36. This Act shall apply to Scotland with the following modifications : Applica-
tion of Act
to Scot-
land.

The expression "Lands Clauses Acts" means the Lands Clauses Consolidation (Scotland) Acts, 1845 and 1860. 8 & 9 Vict.
c. 19.

The expression "simple larceny" means theft.

The expression "felony" means a high crime and offence.

The expression "public purposes" means lighting any street or any place belonging to or subject to the control of any public authority, or any church or place of public worship, or any hall or building belonging to or subject to the control of any public authority, or any public theatre, but shall not

s. 37.

include any other purpose to which electricity may be applied.

The expression "local authority" means as regards streets and roads the authority having the control of the streets and roads.

As to Ireland.

Applica-
tion of Act
to Ireland.

37. This Act shall apply to Ireland with the following modifications :

Where the consent of the grand jury of any county to the breaking up of any road is required under this Act, such consent may be signified by the county surveyor; and where it is required under this Act that notice should be given by the Board of Trade to the grand jury of any county, and an opportunity afforded to such grand jury to state objections, such notice may be given to, and such objections may be stated by, the county surveyor on behalf of the grand jury:

41 & 42
Vict. c. 52.

The expression "Public Health Act, 1875," means the Public Health (Ireland) Act, 1878.

SCHEDULE.

Districts of Local Authorities.	Description of Local Authority of District set opposite its Name.	The Local Rate.	Security upon which Loans are to be contracted.	Authority whose consent is required to borrowing by Local Authority.	Provisions and Restrictions as to borrowing and the Repayment of Loans.	Mode of Audit of Accounts of Local Authority.
ENGLAND AND WALES.						
The city of London and the liberties thereof.	The Mayor, Commonalty, and Citizens, acting by the Commissioners of Sewers. (a), p. 96	The consolidated rate. (b), p. 96				
Parts of the metropolis which the Metropolitan Board of Works are authorised to light.	The Metropolitan Board of Works. (c), p. 96	The consolidated rate. (d), p. 96				

The Electric Lighting Act, 1882.

Districts of Local Authorities.	Description of Local Authority of District set opposite its Name.	The Local Rate.	Security upon which Loans are to be contracted.	Authority whose consent is required to borrowing by Local Authority.	Provisions and Restrictions as to borrowing and the Repayment of Loans.	Mode of Audit of Accounts of Local Authority.
Parish mentioned in Schedule A. to the Metropolis Management Act, 1885. (e), p. 96	The Vestry. (g), p. 97	The lighting rate or other fund or rate applicable for lighting. (k), p. 97	The local rate as herein defined. (k), p. 97	The Metropolitan Board of Works. (e), p. 96	Those contained in sections one hundred and ninety-three to one hundred and ninety-one (both inclusive) of the Metropolis Management Act, 1885. (m), p. 97	That prescribed by section one hundred and ninety-five of the Metropolis Management Act, 1885. (n), p. 104
District mentioned in Schedule B. to the Metropolis Management Act, 1885. (f), p. 97	The district board. (h), p. 97		The authority whose consent is required to loans under section two hundred and thirty-four of the Public Health Act, 1875, in the district, or any other fund or rate applicable to lighting under any local Act. (p), p. 109	The authority whose consent is required to loans under section two hundred and thirty-three, two hundred and thirty-four, and two hundred and thirty-six to two hundred and thirty-nine (both inclusive) of the Public Health Act, 1875. (n), p. 104	Those contained in sections two hundred and thirty-three, two hundred and thirty-four, and two hundred and thirty-six to two hundred and thirty-nine (both inclusive) of the Public Health Act, 1875. (n), p. 104	In the case of boroughs (2), that prescribed by section two hundred and forty-six of the Public Health Act, 1875, and in the case of other urban sanitary authorities that prescribed by section two hundred and forty-seven of the same Act. (e), p. 119
Urban sanitary district (1). (o), p. 106	The urban sanitary authority (1). (o), p. 106					

Rural sanitary district (1). (o), P. 106	The rural sanitary authority (1). (o), p. 106	The rate or rates out of which special expenses incurred in respect of the contributory place or places (1) comprised within the area of supply are payable under the Public Health Act, 1875. (Q), p. 112	The local rate as herein defined. (Q), p. 112	The authority whose consent is required to loans under section two hundred and thirty-three of the Public Health Act, 1875. (Q), p. 125
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Notes.

- (1.) "Urban sanitary district," "rural sanitary authority," "rural sanitary district," and "contributory place," have the meanings respectively assigned to them in the Public Health Act, 1875.
 (2.) "Borough" means any place for the time being subject to an Act passed in the session helden in the fifth and sixth years of the reign of King William the Fourth, chapter seventy-six, intituled, "An Act to provide for the Regulation of Municipal Corporations in England and Wales," and the Acts amending the same.

The Electric Lighting Act, 1882.

Districts of Local Authorities.	Description of Local Authority of District set opposite its Name.	The Local Rate.	Security upon which Loans are to be contracted.	Authority whose consent is required to borrowing by Local Authority.	Provisions and Restrictions as to borrowing and the Repayment of Loans.	Mode of Audit of Accounts of Local Authority.
SCOTLAND.						
Places within the jurisdiction of any town council, and not subject to any such separate jurisdiction as herein-after mentioned.	The town council.	The police or burgh assessment, or rate of the nature of a burgh assessment.	The local rate as herein defined.	One of Her Majesty's Principal Secretaries of State.	Those contained in section eighty-six of the Public Health (Scotland) Act, 1887.	That prescribed by sections seventy-seven and eighty-eight of the General Police and Improvement (Scotland) Act, 1862, provided that the expression "Commissioners" shall include town council.
Places within the jurisdiction of police commissioners or trustees exercising the functions of police commissioners under any general or local Act, and not subject to such jurisdiction as hereinafter mentioned.		The police commissioners or trustees.				

<p>Places within the jurisdiction or limits of any public commissioners or board (other than any of the bodies herein-before mentioned) charged by any local Act with the duty of lighting the district within their jurisdiction or limits with gas.</p>	<p>The commissioners or board.</p> <p>The gas rates leviable by the commissioners or board.</p>	<p>One of Her Majesty's Principal Secretaries of State.</p> <p>The local rate as herein defined, and the rates, charges, and other securities provided by the local Act.</p>	<p>Those contained in the local Act with respect to the borrowing of money for the purposes thereof.</p>	<p>That prescribed by the local Act.</p>
<p>Any county or part thereof over which the jurisdiction of a town council or of police commissioners or trustees exercising the functions of police commissioners does not extend, and not within the jurisdiction or limits of such public commissioners or board as above mentioned.</p>	<p>The county road board.</p>	<p>The local rate as herein defined.</p>	<p>One of Her Majesty's Principal Secretaries of State.</p>	<p>Those contained in sections seventy-five to seventy-nine, both inclusive, of the Roads and Bridges (Scotland) Act 1878.</p>
				<p>That prescribed by section one hundred and twenty of the Roads and Bridges (Scotland) Act 1878.</p>

The Electric Lighting Act, 1882.

Districts of Local Authorities.	Description of Local Authority of District set opposite its Name.	The Local Rate.	Security upon which Loans are to be contracted.	Authority whose consent is required to borrowing by Local Authority.	Provisions and Restrictions as to borrowing and the Repayment of Loans.	Mode of Audit of Accounts of Local Authority.
IRELAND.						
Urban sanitary district (1).	The urban sanitary authority (1).	The rate or rates applicable to the general purposes of the Public Health (Ireland) Act, 1878, or any other fund or rate applicable to lighting under any Local Act.	The local rate as herein defined.	The authority whose consent is required to loans under section two hundred and thirty-seven of the Public Health (Ireland) Act, 1878.	Those contained in sections two hundred and thirty-seven, two hundred and thirty-eight, and two hundred and two hundred and thirty-seven of the Public Health (Ireland) Act, 1878.	That prescribed by section two hundred and forty-eight of the Public Health (Ireland) Act, 1878.

Rural sanitary district (1)	The rural sanitary authority (1).	The rate or rates out of which special expenses incurred in respect of the contributory place or places (1) comprised within the area of supply are payable under the Public Health (Ireland) Act, 1878.	The local rate as herein defined.	The authority whose consent is required to loans under section two hundred and thirty-seven of the Public Health (Ireland) Act, 1878.	Those contained in sections two hundred and thirty-seven, two hundred and thirty-eight, and two hundred and forty to two hundred and forty-three (both inclusive) of the Public Health (Ireland) Act, 1878.	That prescribed by section two hundred and forty-eight of the Public Health (Ireland) Act, 1878.
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Note.

(1) "Urban sanitary district," "urban sanitary authority," "rural sanitary district," "rural sanitary authority," and "contributory place," have the meanings respectively assigned to them in the Public Health (Ireland) Act, 1878.

(a) Issue of commissions of sewers, and assignment of districts, *see* 23 Hen. 8, c. 5; 3 & 4 Edw. 6, c. 8; 3 & 4 Will. 4, c. 22; 24 & 25 Vict. c. 133. Appointment, salaries, and duties of officers, *see* 3 & 4 Will. 4, c. 22; 12 & 13 Vict. c. 50. Courts of sewers, and meetings of commissioners, *see* 4 & 5 Vict. c. 45; 24 & 25 Vict. c. 133, s. 15. Actions, &c., by or against commissioners, *see* 3 & 4 Will. 4, c. 22, ss. 57-59; 4 & 5 Vict. c. 45, s. 14; 24 & 25 Vict. c. 133, ss. 47-53. Creation of sub-districts, *see* 3 & 4 Will. 4, c. 22, s. 14; 12 & 13 Vict. c. 50, s. 1.

(b) Levying sewers rate, &c., *see* 23 Hen. 8, c. 5, ss. 1, 5; 3 & 4 Edw. 6, c. 8, s. 2; 7 Ann. c. 33; 3 & 4 Will. 4, c. 22, s. 18; 4 & 5 Vict. c. 45, ss. 1-3, 8; 24 & 25 Vict. c. 133, ss. 33, 38, 39. Apportionment between successive tenants, *see* 3 & 4 Will. 4, c. 22, s. 18. Separate rates for separate districts, *see* 3 & 4 Will. 4, c. 22, s. 14; 12 & 13 Vict. c. 50, s. 2.

(c) Constitution, incorporation, election, proceedings at meetings, and appointment of committees, &c., *see* 18 & 19 Vict. c. 120, ss. 43-66; 25 & 26 Vict. c. 102, s. 31.

(d) Assessment and levying of consolidation rate, *see* 18 & 19 Vict. c. 120, ss. 172-179; 25 & 26 Vict. c. 102, ss. 5-13, 17, 28, sch. C.; 32 & 33 Vict. c. 102, ss. 22-25; 34 & 35 Vict. c. 47, ss. 2-6; 38 & 39 Vict. c. 33; 38 & 39 Vict. c. 36, s. 21. Power for clerk of board, &c., to inspect county rates, to have copies of poor-rates, &c., *see* 18 & 19 Vict. c. 120, s. 171; 25 & 26 Vict. c. 102, s. 15. Valuation list conclusive for purposes of 32 & 33 Vict. c. 67, s. 45. For payments of liabilities of Metropolitan Commissioners of Sewers, *see* 18 & 19 Vict. c. 120, ss. 181, 182.

(e) Marylebone, Saint Pancras, Lambeth, Saint George Hanover Square, Islington, Saint Mary, Shoreditch Saint Leonard, Paddington, Saint Matthew Bethnal Green, Saint Mary Newington, Camberwell, Saint Mary Westminster, Saint James and Saint John Clerkenwell to be considered as one parish, Chelsea, Kensington, Saint Mary Abbott, Saint Luke Middlesex, Saint George the Martyr Southwark, Ber-

monsey, Saint George in the East, Saint Martin in the Fields, Hamlet of Mile End Old Town, Woolwich, Rotherhithe, Saint John Hampstead.

(f) Whitechapel, Westminster, Greenwich, Wandsworth, Hackney, Saint Giles, Holborn, Strand, Fulham, Limehouse, Poplar, Saint Saviour, Plumstead united with Lewisham, parish of Rotherhithe united with Saint Olave District.

(g) Election, constitution, &c., of Vestries: *See* 18 & 19 Vict. c. 120, ss. 2, 3, 5-30, 54-61, 235, Sch. A., B.; 19 & 20 Vict. c. 112, ss. 3, 6-9; 25 & 26 Vict. c. 102, ss. 36, 37, 39-41. Incorporation of: 18 & 19 Vict. c. 120, s. 42.

(h) Election, constitution, &c., of District Boards: *See* 18 & 19 Vict. c. 120, ss. 31-34, 36-41, 54-61, 202, Sch. A., B.; 25 & 26 Vict. c. 102, s. 37. Incorporation of: 18 & 19 Vict. c. 120, s. 42.

(k) Expenses and rates for paving, lighting, and cleaning: *See* 18 & 19 Vict. c. 120, ss. 92, 158-169.

(m) 18 & 19 Vict. c. 120:—

183. “It shall be lawful for the Metropolitan Board and every district board and vestry, for the purpose of defraying any expenses incurred or to be incurred by them in the execution of this Act, to borrow and take up at interest, on the credit of all or any of the moneys or rates authorised to be raised by them under this Act, any sums of money necessary for defraying any such expenses; and for the purpose of securing the payment of any sums so borrowed, together with such interest as aforesaid, such board or vestry may mortgage or assign over to the persons by or on behalf of whom such sums are advanced, the respective moneys or rates upon the credit of which such sums are borrowed; and the respective mortgagees shall be entitled to a proportion of the moneys or rates comprised in their respective mortgages, according to the sums in such mortgages mentioned to have been advanced; and each mortgagee shall be entitled to be repaid the sums so advanced, with interest, without any pre-

Power to
boards and
vestries to
borrow
money on
mortgage.

ference over other mortgagee or mortgagees by reason of any priority of advance or the date of his mortgage; provided always that no moneys shall be so borrowed by any district board or vestry without the previous sanction in writing of the said Metropolitan Board."

Note.—Sect. 100 of 25 & 26 Vict. c. 102, requires the sanction of the Metropolitan Board to be under their common seal in certain cases. By the 50th section of 32 & 33 Vict. c. 102, the above provisions relating to borrowing by the Metropolitan Board of Works are repealed.

Power to
commis-
sioners
acting
under
14 & 15
Vict. c. 23,
to make
advances.

184. "It shall be lawful for the Commissioners acting in the execution of an Act passed in the Session holden in the 14th & 15th years of Her Majesty, c. 23, "to authorise for a further period the advance of money out of the Consolidated Fund to a limited amount for carrying on public works and fisheries and employment of the poor," and any Act or Acts for amending or continuing the same, to make advances to any such board or vestry upon the security of all or any of the moneys or rates to be raised by them under this Act, and without requiring any further or other security than a mortgage of such moneys or rates.

Form of
mortgage.

185. "Every mortgage authorised to be made under this Act shall be by deed duly stamped, truly stating the date, consideration, and the time of payment, and shall be sealed with the seal of the board or vestry, and may be made in accordance to the Form (E) contained in the schedule to this Act annexed, or to the like effect, or with such variations or additions in each case as the board or vestry and the party advancing the money intended to be thereby secured may

Register of
mortgages.

agree to; and there shall be kept at the office of the board or vestry a register of the mortgages made by them, and within fourteen days after the date of any mortgage an entry shall be made in the register of the number and date thereof, and of the names and descriptions of the parties thereto, as stated in the deed; and every such register shall be open to public inspection during office hours at the said office, without fee

or reward ; and any clerk or other person having the custody of the same, refusing to allow such inspection, shall be liable to a penalty not exceeding five pounds."

Note.—The following is Form (E) :

"MORTGAGE, Number ()

"By virtue of an Act passed in the year of the reign of Queen Victoria, intituled [*here insert the title of this Act*], the Metropolitan Board of Works, or the Board of Works for the district of or the vestry of the parish of (*as the case may be*), in consideration of the sum of paid to by A. B., of for the purposes of the said Act, do grant and assign unto the said A. B., his executors, administrators, and assigns [*here describe the moneys or rates to be mortgaged*], to hold to the said A. B., his executors, administrators, and assigns, from the day of the date hereof until the said sum of with interest at the rate of per centum per annum for the same shall be fully paid and satisfied; and it is hereby declared that the said principal sum shall be repaid on the day of and that in the meantime the interest thereof shall be paid on the day of and the day of in every year.

"In witness whereof the Metropolitan Board of Works, or the said district board, or the said vestry (*as the case may be*), have hereunto set their seal, this day of

188 .

186. "The board or vestry making any such mortgage may, if they think proper, fix a time or times for the repayment of all or any principal moneys borrowed under this Act, and the payment of the interest thereof respectively, and may provide for the repayment of such moneys, with interest, by instalments or otherwise, as they may think fit; and in case the board or vestry fix the time or times of repayment, they shall cause such time or times to be inserted in the mortgage deed; and at the time or times so fixed for payment thereof such principal moneys and interest respectively shall, on demand, be paid to the party entitled to receive the same

Repayment
of money
borrowed
at the
time
agreed
upon.

Interest on mortgages to be paid half-yearly. accordingly; and if no other place of payment be inserted in the mortgage deed, the principal and interest shall be payable at the principal office of the board or vestry, and, unless otherwise provided by any mortgage, the interest of the money borrowed thereupon shall be paid half-yearly; and if no time be fixed in the mortgage deed for the repayment of the money so borrowed, the party entitled to receive such money may, at the expiration or at any time after the expiration of twelve months from the date of such deed, demand payment of the principal money thereby secured, with all arrears of interest, upon giving six months' previous notice for that purpose; and in the like case the board or vestry may at any time pay off the money borrowed, on giving the like notice; and every such notice shall be in writing or print, or both, and if given by a mortgagee shall be given in manner herein provided for service of notices on the board or vestry, and if given by the board or vestry shall be given either personally to such mortgagee or left at his residence, or if such mortgagee or his residence be unknown to them, or cannot be found after diligent inquiry, such notice shall be given by advertisement in the "London Gazette;" and if the board or vestry have given notice of their intention to pay off any such mortgage at a time when the same may lawfully

Interest to cease on expiration of notice to pay off a mortgage debt. be paid off by them, then at the expiration of such notice all further interest shall cease to be payable thereon, unless, on demand of payment made pursuant to such notice, or at any time thereafter, the board or vestry fail to pay the principal and interest due at the expiration of such notice on such mortgage.

Power to borrow to pay off existing securities. 187. "It shall be lawful for the said metropolitan board, with respect to any security granted by the Metropolitan Commissioners of Sewers, or granted by such board under this Act, and for every district board and vestry, with respect to any security for any existing debt or liability which such board or vestry are by this Act required to discharge, and any security granted by such board or vestry

under this Act, to raise and borrow the moneys necessary for paying off such security, and to pay off the same; and the moneys borrowed for the purpose of such payment shall be secured and repaid in like manner as if borrowed for defraying the expenses of the execution of this Act: Provided always, that nothing herein contained shall extend to authorise the paying off of any security otherwise than in accordance with the provisions thereof.

188. "If at the expiration of six months from the time when any principal money or interest has become due upon any mortgage made under this Act or under the said Act of 11th & 12th years of Her Majesty, c. 112, or any Act continuing or amending the same, and after demand in writing, the same be not paid, the mortgagee may, without prejudice to any other mode of recovery, apply for the appointment of a receiver to two justices, who are hereby empowered, after hearing the parties, to appoint in writing, under their hands and seals, some person to collect and receive the whole or a competent part of the moneys and rates liable to the payment of the principal and interest in respect of which the application is made, until such principal or interest, or both, as the case may be, together with the costs of the application and the costs of collection are fully paid, and upon such appointment being made all such moneys or rates or such competent part thereof as aforesaid, shall be paid to the person appointed, and when paid shall be so much money received by or to the use of the mortgagee or mortgagees, and shall be rateably apportioned between or among them, but subject and without prejudice to such rights of priority, if any, as shall then be subsisting between the mortgagees or any of them. Provided always, that no mortgagee shall be prejudiced, either directly or indirectly, by any loss which may be occasioned by the misapplication or non-application of any moneys or rates received by any receiver appointed otherwise than upon the application or with the express

Payment of
principal
and inter-
est may
be enforced
by the
appoint-
ment of a
receiver.

consent of such mortgagee, or by any act, deed, neglect or default on the part of such receiver, but such loss shall be wholly borne by the mortgagee or mortgagees upon whose application or with whose express consent such receiver was appointed: provided also, that no such application shall be entertained unless the sum or sums due and owing to the applicant amount to £1000, or unless a joint application be made by two or more mortgagees to whom there may be due, after such lapse of time, and demand, as last aforesaid, moneys collectively amounting to that sum.

Transfer of
mortgages.

Register of
transfers.

189. "Any mortgagee or other person entitled to any mortgage under this Act, may transfer his estate and interest therein to any other person by deed duly stamped, truly stating its date, the names and descriptions of the parties thereto, and the consideration for the transfer; and such transfer may be according to the form contained in the schedule (F) to this Act annexed, or to the like effect; and there shall be kept at the office of every board and vestry making any mortgages under this Act a register of the transfer of such mortgages; and within thirty days after the date of any such deed of transfer, if executed within the United Kingdom, or within thirty days after its arrival in the United Kingdom if executed elsewhere, the same shall be produced to the clerk of the board or vestry making the mortgage; and such clerk shall, upon payment of the sum of five shillings, cause an entry to be made in such register of its date, and of the names and description of the parties thereto, as stated in the transfer; and upon any transfer being so registered, the transferee, his executors, administrators or assigns, shall be entitled to the full benefit of the original mortgage, and the principal and interest secured thereby; and every such transferee may in like manner transfer his estate and interest in any such mortgage; and no person, except the person to whom the same has been last transferred, his executors, administrators or

assigns, shall be entitled to release or discharge any such mortgage, or any money secured thereby."

Note.—The following is the form given in Schedule (F) :

" FORM OF TRANSFER OF MORTGAGE.

" I, A. B. of , in consideration of the sum of £ paid to me by C. D. of , do hereby transfer to the said C. D. his executors, administrators and assigns, a certain mortgage, number , bearing date the day of , and made by the Metropolitan Board of Works, or the board of works for the district of , or the vestry of the parish of , for securing the sum of and interest (or, if such transfer be by indorsement on the mortgage, insert, instead of the words after " assigns," the within security) and all my property, right and interest in and to the money thereby secured, and in and to the moneys thereby assigned. In witness whereof I have hereunto set my hand and seal, this day of , one thousand eight hundred and

" A. B. (L.S.)

190. "For the purpose of providing a fund for paying off mortgages granted under this Act, the board or vestry granting such mortgage shall once in every year set aside, out of the moneys or rates charged thereby, such sum as they think proper, being not less than two pounds per centum on the amount of the principal moneys secured thereby; and the sum so from time to time set aside, and all other moneys applied by the board or vestry in augmentation of the said fund, shall be applied, in the manner hereinafter directed, in payment, so far as the same will extend, of the principal money secured by such mortgages, or the same shall be invested in the public funds, or on Government or real security, in the name of the board or vestry; and the dividends and interest of the moneys so invested, when and as the same become due, shall from time to time be received and invested in like manner, in order that the said moneys so set aside and invested may accumulate at compound interest; and when

Sinking
fund to be
formed for
paying off
mortgages.

such accumulated fund amounts to a sum which, in the opinion of the board or vestry, can be conveniently applied for that purpose, the stocks, funds, or securities wherein the same is invested shall be sold or otherwise converted into money, and the moneys arising from any such sale and conversion shall be applied, in the manner hereinafter directed, in payment, so far as the same will extend, of the said principal moneys, and so from time to time until the whole of the said principal moneys are discharged.

Mode of
paying off
mortgages.

191. "When and as often as the board or vestry are enabled and think it expedient to pay off one or more of the said mortgages, they shall cause the several numbers of such mortgages to be written upon distinct slips of paper of an equal size, and all such slips shall be rolled or folded up in a similar form, and put in a box, and the clerk of the said board or vestry shall, at a meeting of the board or vestry, draw separately out of the said box one of the said slips, and thereupon the mortgage corresponding with the number so drawn shall be paid off by the board or vestry; and after every such ballot the board or vestry shall cause a notice, signed by the clerk, to be given to the person entitled to the money to be paid off, and such notice shall express the principal sum proposed to be paid off, and that the same will be paid, together with the interest due thereon, at a place to be specified in such notice, at the expiration of six months from the date of giving such notice; and at the expiration of such period the interest of the principal money to be paid off shall cease, unless such principal money and interest be not paid, on demand, pursuant to such notice; but such principal money and interest thereof to the end of the said six months, shall nevertheless be payable, on demand."

(n) 18 & 19 Vict. c. 120. Sect. 189 provides as follows:—
"The auditor of the accounts of the said metropolitan board, and the auditor of the accounts of every district board and every such vestry as aforesaid, shall, in the month of May, and on such day or days as shall be fixed by him or them for

the audit of such respective accounts, attend at the office or principal office of the Metropolitan Board of Works, or of such district board or vestry (as the case may require), for the purpose of auditing their accounts ; and such respective boards and every such vestry shall, by their clerks, treasurers and other officers, produce and lay before such auditor or auditors at every such audit their accounts for the year preceding, together with the statement and account hereinbefore mentioned, accompanied by proper vouchers for the support of the same, and submit to his or their inspection all books, papers, instruments and writings in their custody or control relating thereto ; and such auditor or auditors, in the presence of such of the members of such respective boards or vestries and of the ratepayers and creditors on the rates as desire to attend, shall audit the accounts hereinbefore mentioned, and may examine any of the members of such respective boards or vestries or their officers whom he or they shall deem accountable (and whom he and they is and are hereby empowered to summon by writing under his or their hand or hands, or under the hand of any one of them, to appear before him or them for the purpose of such examination), touching the said accounts, and shall also hear any complaint which any such ratepayer or creditor shall at the time of such audit make touching such accounts ; and such auditor or auditors shall have full power to examine, audit, allow and disallow the said accounts and items therein, and shall charge in such accounts all sums (if any) which ought to be accounted for, and are not brought into account ; and if such accounts be found correct, such auditor or auditors, or the major part of them, shall sign the same in token of his or their allowance thereof, and such allowance shall be final and conclusive on all parties."

See also sect. 38 of 25 & 26 Vict. c. 102, enabling a person aggrieved by allowance, disallowance, or surcharge of auditors to apply to the Court of Queen's Bench for a writ of certiorari to remove the same into that Court.

(o) By reference to the sections of the Public Health Act, 1875, set out below, it will be found that the urban and rural sanitary authority are either the town council, improvement commissioners, local boards, or guardians of unions.

Urban and sanitary districts and authorities are constituted under the following sections :

5. "For the purposes of this Act England, except the Metropolis, shall consist of districts to be called respectively—

- (1.) Urban sanitary districts, and
- (2.) Rural sanitary districts,

(in this Act referred to as urban and rural districts); and such urban and rural districts shall respectively be subject to the jurisdiction of local authorities, called urban sanitary authorities and rural sanitary authorities (in this Act referred to as urban and rural authorities), invested with the powers in this Act mentioned.

6. "Urban districts shall consist of the places in that behalf mentioned in the first column of the table in this section contained, and urban authorities shall be the several bodies of persons specified in the second column of the said table in relation to the said places respectively.

Urban district.	Urban authority.
Borough constituted such either before or after the passing of this Act.	The Mayor, Aldermen, and Burgesses acting by the Council.
Improvement Act district constituted such before the passing of this Act, and having no part of its area situated within a borough or local government district.	The Improvement Commissioners.
Local government district constituted such either before or after the passing of this Act, having no part of its area situated within a borough, and not coincident in area with a borough or Improvement Act district.	The Local Board.

“ Provided that—

- (1.) Any borough, the whole of which is included in and forms part of a Local Government district or Improvement Act district, and any Improvement Act district which is included in and forms part of a Local Government district, and any Local Government district which is included in and forms part of any Improvement Act district, shall for the purposes of this Act be deemed to be absorbed in the larger district in which it is included, or of which it forms part; and the improvement commissioners or local board, as the case may be, of such larger district, shall be the urban authority therein ; and
- (2.) Where an Improvement Act district is coincident in area with a Local Government district, the improvement commissioners, and not a local board, shall be the urban authority therein ; and
- (3.) Where any part of an Improvement Act district is situated within a borough or Local Government district, or where any part of a Local Government district is situated within a borough, the remaining part of such Improvement Act district or of such Local Government district so partly situated within a borough shall for the purposes of this Act continue subject to the like jurisdiction as it would have been subject to if this Act had not been passed, unless and until the Local Government Board by provisional order otherwise directs.

“ For the purposes of this Act, the boroughs of Oxford, Cambridge, Blandford, Calne, Wenlock, Folkestone, and Newport Isle of Wight, shall not be deemed to be boroughs, and the borough of Cambridge shall be deemed to be an Improvement Act district, and the borough of Oxford to be included in the Local Government district of Oxford. So much of the borough of Folkestone as is not included within the Local Government

district of Sandgate shall be an urban district, and shall be under the jurisdiction, for the purposes of this Act, of the authority for executing the Folkestone Improvement Act, 1855."

As to local boards established before the passing of the Local Government Act, 1858, see rule 71 of the second schedule to this Act.

As to transfer, (1) of the powers of commissioners under local Acts, see ss. 10 and 272, and, (2) on incorporation of a new borough, see s. 310 of this Act.

9. "The area of any union which is not coincident in area with an urban district, nor wholly included in an urban district (in this section called a rural union), with the exception of those portions (if any) of the area which are included in any urban district, shall be a rural district, and the guardians of the union shall form the rural authority of such district :

"Provided that—

- (1.) An *ex officio* guardian resident in any parish or part of a parish belonging to each union, which parish or part of a parish forms or is situated in an urban district, shall not act or vote in any case in which guardians of such union act or vote as members of the rural authority, unless he is the owner or occupier of property situated in the rural district of a value sufficient to qualify him as an elective guardian for the union.
- (2.) An elective guardian of any parish belonging to such union, and forming or being wholly included within an urban district, shall not act or vote in any case in which guardians of such union act or vote as members of the rural authority.
- (3.) Where part of a parish belonging to a rural union forms or is situated in an urban district, the Local Government Board may by order divide such parish into separate wards, and determine the number of guardians to be elected by such wards

respectively, in such manner as to provide for the due representation of the part of the parish situated within the rural district; but until such order has been made the guardian or guardians of such parish may act and vote as members of the rural authority in the same manner as if no part of such parish formed part of or was situated in an urban district.

“Where the number of elective guardians who are not by this section disqualified from acting and voting as members of the rural authority is less than five, the Local Government Board may from time to time by order nominate such number of persons as may be necessary to make up that number from owners or occupiers of property situated in the rural district of a value sufficient to qualify them as elective guardians for the union, and the persons so nominated shall be entitled to act and vote as members of the rural authority but not further or otherwise.

“Subject to the provisions of this Act, all statutes, orders, and legal provisions applicable to any board of guardians shall apply to them in their capacity of rural authority under this Act for purposes of this Act; and it is hereby declared that the rural authority are the same body as the guardians of the union or parish for or within which such authority act.”

(p) When a local Act exists authorising the levying of a fund or rate applicable to lighting, any expenses incurred by a local authority under the Electric Lighting Act may be defrayed out of such fund or rate. Where no such local act exists the expenses of such acts are to be paid out of the fund or rate applicable to the general purposes of the Public Health Act, 1875, “*in the district*,” that is to say in the “urban sanitary district,” or in other words out of the district fund and general district rate, subject to the exceptions to sect. 207.

The following are the sections of the Public Health Act relating to this subject :—

Mode of defraying expenses of urban authority.

207. “All expenses incurred or payable by an urban authority in the execution of this Act, and not otherwise provided for, shall be charged on and defrayed out of the district fund and general district rate leviable by them under this Act, subject to the following exceptions ; (namely,) That if in any district the expenses incurred by an urban

authority (being the council of a borough) in the execution of the Sanitary Acts were at the time of the passing of this Act payable out of the borough fund or borough rate, then the expenses incurred by that authority in the execution of this Act shall be charged on and defrayed out of the borough fund or borough rate ; and

That if in any district the expenses incurred by an urban authority (being improvement commissioners) in the execution of the Sanitary Acts were at the time of the passing of this Act payable out of any rate in the nature of a general district rate leviable by them as such commissioners throughout the whole of their district, then the expenses incurred by that authority in the execution of this Act shall be charged on and defrayed out of such rate ; and for the purposes of this section the council of the borough of Folkestone shall be deemed to be improvement commissioners ; and

That where at the time of the passing of this Act the expenses incurred by an urban authority in the execution of certain purposes of the Sanitary Acts were payable out of the borough fund and borough rate, and the expenses incurred by such authority in the execution of the other purposes of the said Acts were payable out of a rate or rates leviable by that authority throughout the whole of their district for paving, sewerage, or other sanitary purposes, then the expenses incurred by that authority in the execution of the same or similar pur-

poses respectively under this Act shall respectively be charged on and defrayed out of the borough fund and borough rate, and out of the rate or rates leviable as aforesaid."

The Sanitary Acts are defined by sect. 4 of the Public Health Act, 1875.

209. "In the district of every urban authority whose expenses under this Act are directed to be defrayed out of the district fund and general district rate there shall be continued or established a fund called the district fund: a separate account called "the district fund account" of all moneys carried under this Act to the account of that fund shall be kept by the treasurer of the urban authority; and such moneys shall be applied by the urban authority in defraying such of the expenses chargeable thereon under this Act as they may think proper.

210. "For the purpose of defraying any expenses chargeable on the district fund which that fund is insufficient to meet, the urban authority shall from time to time, as occasion may require, make by writing under their common seal, and levy in addition to any other rate leviable by them under this Act, a rate or rates to be called "general district rates."

"Any such rate may be made and levied either prospectively in order to raise money for the payment of future charges and expenses, or retrospectively in order to raise money for the payment of charges and expenses incurred at any time within six months before the making of the rate: in calculating the period of six months during which the rate may be made retrospectively, the time during which any appeal or other proceeding relating to such rate is pending shall be excluded.

"Public notice of intention to make any such rate, and of the time when it is intended to make the same, and of the place where a statement of the proposed rate is deposited for inspection, shall be given by the urban authority in the week immediately before the day on which the rate is intended to

be made, and at least seven days previously thereto; but in case of proceedings to levy or recover any rate it shall not be necessary to prove that such notice was given."

(q) By sect. 7, p. 35, any expenses incurred by a rural sanitary authority under the Electric Lighting Act shall be deemed special expenses within the meaning of the Public Health Act, 1875. Special expenses as shewn by the following section (229) of the Public Health Act, 1875, are a charge on each contributory place, and by the same section a definition of contributory place is given.

229. "The expenses incurred by a rural authority in the execution of this Act shall be divided into general expenses and special expenses.

"General expenses (other than those chargeable on owners and occupiers under this Act) shall be the expenses of the establishment and officers of the rural authority, the expenses in relation to disinfection, the providing conveyance for infected persons, and all other expenses not determined by this Act or by the order of the Local Government Board to be special expenses.

"Special expenses shall be the expenses of the construction, maintenance, and cleansing of sewers in any contributory place within the district, the providing a supply of water to any such place, and maintaining any necessary works for that purpose, if and so far as the expenses of such supply and works are not defrayed out of water rates or rents under this Act, the charges and expenses arising out of or incidental to the possession of property transferred to the rural authority in trust for any contributory place, and all other expenses incurred or payable by the rural authority in or in respect of any contributory place within the district, and determined by order of the Local Government Board to be special expenses.

"Where the rural authority make any sewers or provide any water supply or execute any other work under this Act for the common benefit of any two or more contributory

places within their district, they may apportion the expense of constructing any such work, and of maintaining the same, in such proportions as they shall think just, between such contributory places, and any expense so apportioned to any such contributory place shall be deemed to be special expenses legally incurred in respect of such contributory place.

“The overseers of any contributory place, if aggrieved by any such apportionment, may, within twenty-one days after notice has been given to them of the apportionment, send or deliver a memorial to the Local Government Board stating their grounds of complaint, and the said Board may make such order in the matter as to it may seem equitable, and the order so made shall be binding and conclusive on all parties concerned.

“General expenses shall be payable out of a common fund to be raised out of the poor-rate of the parishes in the district according to the rateable value of each contributory place in manner in this Act mentioned.

“Special expenses shall be a separate charge on each contributory place.

“The following areas situated in a rural district shall be contributory places for the purposes of this Act—that is to say :

1. Every parish not having any part of its area within the limits of a special drainage district formed in pursuance of the Sanitary Acts or of this Act, or of an urban district ; and
2. Every such special drainage district as aforesaid ; and such portion of that parish as is not comprised within such special drainage district ; and
3. In the case of a parish wholly situated in a rural district, and part of which forms or is part of any such special drainage district as aforesaid, such portion of that parish as is not comprised within such special drainage district ; and
4. In the case of a parish a part of which is situated

within an urban district, such portion of that parish as is not comprised within such urban district, or within any such special drainage district as aforesaid."

(r) The following is the Public Health Act, sect. 233 :—

233. "Any local authority may, with the sanction of the Local Government Board, for the purpose of defraying any costs, charges, and expenses incurred or to be incurred by them in the execution of the Sanitary Acts or of this Act, or for the purpose of discharging any loans contracted under the Sanitary Acts or this Act, borrow or re-borrow, and take up at interest, any sums of money necessary for defraying any such costs, charges, and expenses, or for discharging any such loans as aforesaid.

"An urban authority may borrow or re-borrow any such sums on the credit of any fund or all or any rates or rate out of which they are authorised to defray expenses incurred by them in the execution of this Act, and for the purpose of securing the repayment of any sums so borrowed, with interest thereon, they may mortgage to the persons by or on behalf of whom such sums are advanced any such fund or rates or rate.

"A rural authority may borrow or re-borrow any such sums, if applied or intended to be applied to general expenses of such authority, on the credit of the common fund out of which such expenses are payable, and if applied or intended to be applied to special expenses of such authority, on the credit of any rate or rates out of which such expenses are payable, and for the purpose of securing the repayment of any sums so borrowed, with interest thereon, they may mortgage to the persons by or on behalf of whom such sums are advanced any such fund, rate, or rates.

234. "The exercise of the powers of borrowing conferred by this Act shall be subject to the following regulations ; (namely),

(1.) Money shall not be borrowed except for permanent works (including under this expression any works

of which the cost ought in the opinion of the Local Government Board to be spread over a term of years) :

- (2.) The sum borrowed shall not at any time exceed, with the balances of all the outstanding loans contracted by the local authority under the Sanitary Acts and this Act, in the whole the assessable value for two years of the premises assessable within the district in respect of which such money may be borrowed :
- (3.) Where the sum proposed to be borrowed with such balances (if any) would exceed the assessable value for one year of such premises, the Local Government Board shall not give their sanction to such loan until one of their inspectors has held a local inquiry and reported to the said Board :
- (4.) The money may be borrowed for such time, not exceeding sixty years, as the local authority, with the sanction of the Local Government Board, determine in each case; and subject as aforesaid, the local authority shall either pay off the moneys so borrowed by equal annual instalments of principal or of principal and interest, or they shall in every year set apart as a sinking fund, and accumulate in the way of compound interest, by investing the same in the purchase of Exchequer bills or other Government securities, such sum as will with accumulations in the way of compound interest be sufficient after payment of all expenses to pay off the moneys so borrowed within the period sanctioned.
- (5.) A local authority may at any time apply the whole or any part of a sinking fund set apart under this Act in or towards the discharge of the moneys for the repayment of which the fund has been established : Provided that they pay into the fund in each year, and accumulate until the whole of the moneys borrowed are discharged, a sum equivalent to the

interest which would have been produced by the sinking fund or the part of the sinking fund so applied.

- (6.) Where money is borrowed for the purpose of discharging a previous loan the time for repayment of the money so borrowed shall not extend beyond the unexpired portion of the period for which the original loan was sanctioned, unless with the sanction of the Local Government Board, and shall in no case be extended beyond the period of sixty years from the date of the original loan.

“Where any urban authority borrow any money for the purpose of defraying private improvement expenses, or expenses in respect of which they have determined a part only of the district to be liable, it shall be the duty of such authority, as between the ratepayers of the district, to make good, so far as they can, the money so borrowed, as occasion requires, either out of private improvement rates or out of a rate levied in such part of the district as aforesaid.”

Note to sub-sect. (1). In Glen's Public Health Act, 1875, 9th Ed. p. 271, it is stated that “The Local Government Board have held a steam-roller, a steam pumping-engine, a steam fire-engine, a stone crushing machine, and closet tubs for the use of the poorer classes, to be permanent work. It would seem, therefore, that dynamo-electric machines will be included under the same term.

236. “Every mortgage authorised to be made under this Act shall be by deed, truly stating the date, consideration, and the time and place of payment, and shall be sealed with the common seal of the local authority, and may be made according to the form contained in Sched. IV. to this Act, or to the like effect.”

The following is the form given in Sched. IV. :—

FORM OF MORTGAGE OF RATES.

“By virtue of the Public Health Act, 1875, we, the _____,

being the local authority under that Act for the district of , in consideration of the sum of , paid to the treasurer of the said district of A.B., of , for the purposes of the said Act, do grant and assign unto the said A.B., his executors, administrators, and assigns, such proportion of the rates arising or accruing by virtue of the said Act from [*the rates mortgaged*] as the said sum of doth or shall bear to the whole sum which is or shall be borrowed on the credit of the said rates, to hold to the said A.B., his executors, administrators, and assigns, from the day of the date hereof until the said sum of with interest at the rate of per centum per annum for the same, shall be fully paid and satisfied: And it is hereby declared, that the said principal sum shall be repaid on the day of at [place of payment]. Dated this day of one thousand eight hundred and .

[*To be sealed with the common seal of the local authority.*]

237. "There shall be kept at the office of the local authority a register of the mortgages on each rate, and within fourteen days after the date of any mortgage an entry shall be made in the register of the number and date thereof, and of the names and description of the parties thereto, as stated in the deed. Every such register shall be open to public inspection during office hours at the said office, without fee or reward; and any clerk or other person having the custody of the same, refusing to allow such inspection, shall be liable to a penalty not exceeding five pounds.

238. "Any mortgagee or other person entitled to any mortgage under this Act may transfer his estate and interest therein to any other person by deed duly stamped, truly stating its date and the consideration for the transfer; and such transfers may be according to the form contained in Schedule IV. to this Act, or to the like effect.

"There shall be kept at the office of the local authority a register of the transfers of mortgage charged on each rate,

and within thirty days after the date of such deed of transfer, if executed within the United Kingdom, or within thirty days after its arrival in the United Kingdom, if executed elsewhere, the same shall be produced to the clerk of the local authority, who shall, on payment of a sum not exceeding five shillings, cause an entry to be made in such register of its date, and of the names and description of the parties thereto, as stated in the transfer; and until such entry is made the local authority shall not be in any manner responsible to the transferee.

"On the registration of any transfer the transferee his executors or administrators shall be entitled to the full benefit of the original mortgage and the principal and interest secured thereby; and any transferee may in like manner transfer his estate and interest in any such mortgage; and no person except the last transferee, his executors or administrators, shall be entitled to release or discharge any such mortgage or any money secured thereby.

"If the clerk of the local authority wilfully neglects or refuses to make in the register any entry by this section required to be made, he shall be liable to a penalty not exceeding twenty pounds."

A transfer in a different form and intended to effect different objects need not be registered : *Reg. v. General Cemetery Co.*, 6 E. & B. 415.

As to the recovery of penalties, see ss. 251-253.

The form of transfer given in Sched. IV. is as follows :—

"FORM OF TRANSFER OF MORTGAGE.

"I, A.B., of , in consideration of the sum of , paid to me by C.D., of , do hereby transfer to the said C.D., his executors, administrators, and assigns, a certain mortgage, bearing date the day of , and made by the local authority under the Public Health Act, 1875, for the district of , for securing the sum of and interest thereon at per centum per annum [or if such

transfer be by endorsement on the mortgage, insert, instead of the words immediately following the word "assigns," the within security], and all my right, estate, and interest in and to the money thereby secured, and in and to the rates thereby assigned. In witness whereof I have hereunto set my hand and seal this day of one thousand eight hundred and

"A.B. (L.S.)

239. "If at the expiration of six months from the time when any principal money or interest has become due on any mortgage of rates made under this Act, and after demand in writing, the same is not paid, the mortgagee or other person entitled thereto may, without prejudice to any other mode of recovery, apply for the appointment of a receiver to a Court of summary jurisdiction; and such Court may, after hearing the parties, appoint in writing under their hands and seals some person to collect and receive the whole or a competent part of the rates liable to the payment of the principal or interest in respect of which the application is made, until such principal or interest, or both, as the case may be, together with the costs of the application and of collection, are fully paid.

"On such appointment being made, all such rates, or such competent part thereof as aforesaid, shall be paid to the person appointed, and when so paid shall be so much money received by or to the use of the mortgagee or mortgagees of such rates, and shall be rateably apportioned between them:

"Provided that no such application shall be entertained unless the sum or sums due and owing to the applicant amount to £1000, or unless a joint application is made by two or more mortgagees or other persons to whom there may be due, after such lapse of time and demand as last aforesaid, moneys collectively amounting to that sum.

(s) The word "borough" is defined to mean "any place for the time being subject to" the Municipal Corporation Act, 1835. On the 18th of August, 1882, both the Electric Light-

ing Act and the Municipal Corporations Act, 1882, received the royal assent. By the latter Act the Municipal Corporations Act, 1835, was repealed.

The position, therefore, is that between the 18th of August and the 31st of December, 1882, the dates when the Electric Lighting Act and Municipal Corporations Act respectively come into operation, the definition of the word "borough" is that given in the Municipal Corporations Act, 1835, and that after the 31st of December, 1882, the Electric Lighting Act will cease to contain any definition of that word, as no place will, "for the time being," be subject to the repealed statute.

The Courts will, however, probably look to the same source for their definition of the word, as the intention of the legislature is very clearly indicated.

The definition in the Municipal Corporations Act, 1882, is as follows:—

"Borough" means, unless a contrary intention appear, a city or town to which this Act applies.

The following section (246) of the P. H. A., 1875, applies to all "boroughs":—

246. "Where an urban authority are the council of a borough the accounts of the receipts and expenditure under this Act of such authority shall be audited and examined by the auditors of the borough, and shall be published in like manner and at the same time as the municipal accounts, and the auditors shall proceed in the audit after like notice and in like manner, shall have like powers and authorities, and perform like duties, as in the case of auditing the municipal accounts.

"Each of such auditors shall in respect of each audit be paid such reasonable remuneration, not being less than two guineas for every day in which they are employed in such audit, as such authority from time to time appoint. Any order of such authority for the payment of any money may be removed by certiorari, and like proceedings may be had thereon as under section forty-four of the Act of the first year of Her

Majesty, chapter seventy-eight, with respect to the orders of the council of a borough for payments out of the borough fund."

See ss. 37, 51, and 93 of Municipal Corporations Act, 1835 (5 & 6 Will. 4, c. 76), and as to remuneration of auditors, *Usher v. Woodman*, 29 J. P. 27.

And s. 62 of Municipal Corporations Act, 1882 (45 & 46 Vict. c. 50).

The following section (247) of the P. H. A., 1875, applies to "urban sanitary authorities":—

247. "Where an urban authority are not the council of a borough the following regulations with respect to audit shall be observed; (namely,) "

- (1.) The accounts of the receipts and expenditure under this Act of such authority shall be audited and examined once in every year, as soon as can be after the twenty-fifth day of March, by the auditor of accounts relating to the relief of the poor *for the union in which the district of such authority or the greater part thereof is situate, unless such auditor is a member of the authority whose accounts he is appointed to audit, in which case such accounts shall be audited by such auditor of any adjoining union as may from time to time be appointed by the Local Government Board:*
- (2.) *There shall be paid to such auditor in respect of each audit under this Act, such reasonable remuneration, not being less than two guineas for every day in which he is employed in such audit, as such authority from time to time appoint, together with his expenses of travelling to and from the place of audit:*
- (3.) Before each audit such authority shall, after receiving from the auditor the requisite appointment, give at least fourteen days' notice of the time and place at which the same will be made, and of the deposit of accounts required by this section, by advertisement in some one or more of the local newspapers circu-

lated in the district; and the production of the newspaper containing such notice shall be deemed to be sufficient proof of such notice on any proceeding whatsoever:

- (4.) A copy of the accounts duly made up and balanced, together with all rate books, account books, deeds, contracts, accounts, vouchers, and receipts, mentioned or referred to in such accounts, shall be deposited in the office of such authority, and be open, during office hours thereat, to the inspection of all persons interested for seven clear days before the audit, and all such persons shall be at liberty to take copies of or extracts from the same, without fee or reward; and any officer of such authority duly appointed in that behalf neglecting to make up such accounts and books, or altering such accounts and books, or allowing them to be altered when so made up, or refusing to allow inspection thereof, shall be liable to a penalty not exceeding five pounds:
- (5.) For the purpose of any audit under this Act, every auditor may, by summons in writing, require the production before him of all books, deeds, contracts, accounts, vouchers, receipts, and other documents and papers which he may deem necessary, and may require any person holding or accountable for any such books, deeds, contracts, accounts, vouchers, receipts, documents, or papers to appear before him at any such audit or any adjournment thereof, and to make and sign a declaration as to the correctness of the same; and if any such person neglects or refuses so to do, or to produce any such books, deeds, contracts, accounts, vouchers, receipts, documents, or papers, or to make or sign such declaration, he shall incur for every neglect or refusal a penalty not exceeding forty shillings; and if he falsely or corruptly makes or signs any such declaration, knowing the

same to be untrue in any material particular, he shall be liable to the penalties inflicted on persons guilty of wilful and corrupt perjury:

- (6.) Any ratepayer or owner of property in the district may be present at the audit, and may make any objection to such accounts before the auditor; and such ratepayers and owners shall have the same right of appeal against allowances by an auditor as they have by law against disallowances.
- (7.) Any auditor acting in pursuance of this section shall disallow every item of account contrary to law, and surcharge the same on the person making or authorising the making of the illegal payment, and shall charge against any person accounting the amount of any deficiency or loss incurred by the negligence or misconduct of that person, or of any sum which ought to have been but is not brought into account by that person, and shall in every such case certify the amount due from such person, and on application by any party aggrieved shall state in writing the reasons for his decision in respect of such disallowance or surcharge, and also of any allowance which he may have made.
- (8.) Any person aggrieved by disallowance made may apply to the Court of Queen's Bench for a writ of certiorari to remove the disallowance into the said Court, in the same manner and subject to the same conditions as are provided in the case of disallowances by auditors under the laws for the time being in force with regard to the relief of the poor; and the said Court shall have the same powers with respect to allowances, disallowances and surcharges under this Act as it has with respect to disallowances or allowances by the said auditors; or in lieu of such application any person so aggrieved may

appeal to the Local Government Board, which Board shall have the same powers in the case of the appeal as it possesses in the case of appeals against allowances, disallowances, and surcharges by the said poor law authorities :

(9.) Every sum certified to be due from any person by an auditor under this Act shall be paid by such person to the treasurer of such authority within fourteen days after the same has been so certified, unless there is an appeal against the decision ; and if such sum is not so paid, and there is no such appeal, the auditor shall recover the same from the person against whom the same has been certified to be due by the like process and with the like powers as in the case of sums certified on the audit of the poor rate accounts, and shall be paid by such authority all such costs and expenses, including a reasonable compensation for loss of time incurred by him in such proceedings, as are not recovered by him from such person :

(10.) Within fourteen days after the completion of the audit, the auditor shall report on the accounts audited and examined, and shall deliver such report to the clerk of such authority, who shall cause the same to be deposited in their office, and shall publish an abstract of such accounts in some one or more of the local newspapers circulated in the district.

“Where the provisions as to audit of any local Act constituting a board of improvement commissioners are repugnant to or inconsistent with those of this Act, the audit of the accounts of such improvement commissioners shall be conducted in all respects in accordance with the provisions of this Act.”

The words of the above section in italics are repealed

by "The District Auditors Act, 1879" (42 Vict. c. 6), which see.

Sub-sect. (7). As to liability under this: see *Joint Stock Discount Co. v. Brown*, L. R. 8 Eq. 376; *Attorney-General v. Tottenham Board of Health*, 27 L. T. (N.S.) 440.

Sub-sect. (8). As to certiorari: see s. 35 of the 7 & 8 Vict. c. 101; 5 & 6 Will. and M. c. 11; 8 & 9 Will. 3, c. 3; 5 Geo. 2, c. 19, s. 23; 5 & 6 Will. 4, c. 33. As to appeals to Local Government Board: see 7 & 8 Vict. c. 101, s. 36; 11 & 12 Vict. c. 91, s. 4; 29 & 30 Vict. c. 113, ss. 5, 7; 39 & 40 Vict. c. 61, s. 38.

Sub-sect. (9). As to recovering sums certified: see 7 & 8 Vict. c. 101, s. 32; 12 & 13 Vict. c. 103, s. 9; as to recovery of sums surcharged: see 4 & 5 Will. 4, c. 76, s. 99; *Reg. v. Tyrwhit*, 19 L. J. M. C. 249.

The certificate of the auditor is final, unless appealed against: *Reg. v. Finnis*, 28 L. J. M. C. 201; *Reg. v. Brecknock Justices*, 7 E. & B. 951; *Reg. v. Lingford*, 7 E. & B. 950.

The auditor cannot re-open accounts for the purpose of correcting them after the audit is closed: *Reg. v. Chiddington*, 2 B. & S. 294.

As to costs: see *Prest v. Royston*, 33 L. T. (N.S.) 564.

(t) The following is the 248th section of the Public Health Act, 1875:—

248. "The accounts under this Act of every rural authority shall be audited by the same persons and in every respect in the same manner as the accounts of guardians are audited under the Acts for the relief of the poor for the time being in force.

"The accounts of the overseers collecting or paying any money for the purposes of this Act shall be audited in the same manner as the accounts of overseers collecting or paying any money for the purposes of the Acts relating to the relief of the poor for the time being in force.

"An auditor shall, with respect to the accounts audited

under this section, have the like powers and be subject to the like obligations in every respect as in the case of an audit under the Acts relating to the relief of the poor, and any person aggrieved by the decision of the auditor shall have the like rights and remedies as in the case of such last-mentioned audit."

APPENDIX.

BOARD OF TRADE ARBITRATIONS, &c., ACT, 1874.

An Act to amend the powers of the Board of Trade with respect to inquiries, arbitrations, appointments, and other matters under special Acts, and to amend the Regulation of Railways Act, 1873, so far as regards the reference of differences to the Railway Commissioners in lieu of Arbitrators. A.D. 1874.

[30th July, 1874.]

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :

Preliminary.

1. This Act may be cited as the Board of Trade Arbitrations, &c., Act, 1874. Short title.

PART I.

Board of Trade Inquiries, &c.

2. Where, under the provisions of any special Act, passed either before or after the passing of this Act, the Board of Trade are required or authorised to sanction, approve, confirm, or determine any appointment, matter, or thing, or to make any order or to do any other act or thing for the purposes of such special Act, the Board of Trade may make such inquiry as they may think necessary for the purpose of enabling them to comply with such requisition or exercise such authority.

Where an inquiry is held by the Board of Trade for the purposes of this section, or in pursuance of any general or

Power of
Board of
Trade as to
inquiry.

A.D. 1874.

—
Expenses
connected
with arbi-
tration,
sanction,
&c.

special Act passed either before or after the passing of this Act, directing or authorising them to hold any inquiry, the Board of Trade may hold such inquiry by any person or persons duly authorised in that behalf by an order of the Board of Trade, and such inquiry if so held shall be deemed to be duly held.

3. Where application is made in pursuance of any special Act passed either before or after the passing of this Act, to the Board of Trade to be arbitrators, or to appoint any arbitrator, referee, engineer, or other person, or to hold any inquiry, or to sanction, approve, confirm, or determine, any appointment, matter, or thing, or to make any order, or to do any other act or thing for the purposes of such special Act, all expenses incurred by the Board of Trade in relation to such application and the proceedings consequent thereon, shall, to such amount as the Board of Trade may certify by their order to be due, be defrayed by the parties to such application, and (subject to any provision contained in the said special Act) shall be defrayed by such of the parties as the Board of Trade may by order direct, or if so directed by an order of the Board of Trade shall be paid as costs of the arbitration or reference.

The Board of Trade may, if they think fit, on or at any time after the making of the application, by order require the parties to the application, or any of them, to pay to the Board of Trade such sum as the Board of Trade think requisite for or on account of those expenses, or to give security to the satisfaction of the Board of Trade for the payment of those expenses on demand, and if such payment or security is not made or given may refuse to act in pursuance of the application.

All expenses directed by an order of the Board of Trade or an award in pursuance of this section to be paid may be recovered in any Court of competent jurisdiction as a debt, and if payable to the Board of Trade, as a debt to the Crown, and an order of the Board of Trade shall be conclusive evidence of the amount of such expenses.

Meaning of
“special
Act.”

4. In this part of this Act the term “special Act” means a local or local and personal Act, or an Act of a local and personal nature, and includes a provisional order of the Board of Trade confirmed by Act of Parliament and a certificate

granted by the Board of Trade under the Railways Construction Facilities Act, 1864. A.D. 1874.

An order of the Board of Trade for the purposes of this part of this Act, or of any such special Act as is referred to in this part of this Act, may be made by writing under the hand of the President or of one of the secretaries of the Board.

5. The Act of the session of the thirty-fifth and thirty-sixth years of the reign of Her present Majesty, chapter eighteen, intituled "An Act for regulating Inquiries by the Board of Trade," is hereby repealed, without prejudice to anything done or suffered under that Act.

Order of
Board of
Trade may
be in
writing.

Repeal of
35 & 36
Vict. c. 18.

PART II.

Reference to Railway Commissioners.

6. Where any difference to which a railway company or canal company is a party is required or authorised under the provisions of any general or special Act passed either before or after the passing of this Act, to be referred to the arbitration of or to be determined or settled by the Board of Trade, or some person or persons appointed by the Board of Trade, the Board of Trade may, if they think fit, by order in writing under the hand of the President or one of the Secretaries of the Board, refer the matter for the decision of the Railway Commissioners, and appoint them arbitrators or umpire, as the case may be, and thereupon the Commissioners for the time being shall have the same powers as if the matter had been referred to their decision in pursuance of the Regulation of Railways Act, 1873, and also any further powers which the Board of Trade, or an arbitrator or arbitrators, or umpire, appointed by the Board of Trade, would have had for the purpose of the arbitration, if the difference had not been referred to the Commissioners: Provided always, that this section shall not apply to any case in which application is made to the Board of Trade for the appointment of an umpire under the twenty-eighth section of "The Lands Clauses Consolidation Act, 1845."

Power of
Board of
Trade to
appoint
Railway
Commiss-
ioners to
be arbitra-
tors or
umpire.

7. Where any difference is referred for the decision of the Commissioners in pursuance of the Regulation of Railways Act, 1873, as amended by this part of this Act, the Com-

Declar-
ation as to
powers of
Commis-

A.D. 1874. missioners in arbitrations. missioners shall have the same power by their decision of rescinding, varying, or adding to, any award or other decision previously made by any arbitrator or arbitrators (including therein the Board of Trade) with reference to the same subject-matter as any arbitrator or arbitrators would have had if the difference had been referred to him or them.

Duration, &c., of part of Act, and construction with 36 & 37 Vict. c. 48. **8.** This part of this Act shall be construed as one with the Regulation of Railways Act, 1873, and shall continue in force for the same time as that Act and no longer, but the expiration of this part of this Act shall not affect the validity of anything done before such expiration.

The Regulation of Railways Act, 1873, together with this part of this Act, may be cited as the Regulation of Railways Acts, 1873 and 1874.

TELEGRAPH ACT, 1878.

AS FAR AS INCORPORATED BY SECT. 26 OF THE ELECTRIC
LIGHTING ACT, 1882.

2. In the construction of this Act, unless there is something inconsistent in the context, words and expressions shall have the same meanings as in the Telegraph Act, 1863, and in addition thereto—

The expressions “street” and “public road” shall respectively include any highway:

The expression “Act of Parliament” means any Act of Parliament whether public general, local and personal, or private, and includes the order confirmed by any such Act, and includes a certificate granted by the Board of Trade under the Railways Construction Facilities Act, 1864:

The expression “Telegraph Acts” includes the Telegraph Act, 1863, the Telegraph Act Amendment Act, 1866, the Telegraph Act, 1868, the Telegraph Act, 1869, the Telegraph Act, 1870, this Act and any Acts or parts of Acts incorporated with such Acts or referred to therein, any or either of them, and such several Acts may be cited together as the Telegraph Acts, 1863 to 1878:

26 & 27
Vict. c.
112.
29 & 30
Vict. c. 3.
31 & 32
Vict. c.
110.
32 & 33
Vict. c. 73.
33 & 34
Vict. c. 88.

The expression “undertaking” means the works or undertaking of whatever nature the execution of which is authorised by an Act of Parliament as above defined:

The expression “undertakers” means the parties, whether company, commissioners, trustees, corporations, or private persons, empowered by an Act of Parliament as above defined to execute an undertaking, and any lessee or tenant thereof:

The expression “agents” includes contractors, and also the officers, engineers, workmen, or servants, as well of the Postmaster-General, undertakers, bodies, or persons, as of his or their contractors:

The expression “telegraphic line” means telegraph, posts,

and any work (within the meaning of the Telegraph Act, 1863) and also any cables, apparatus, pneumatic or other tube, pipe, or thing whatsoever used for the purpose of transmitting telegraphic messages or maintaining telegraphic communication, and includes any portion of a telegraphic line as defined by this Act:

The expressions "alteration," "alter," and "altering" in respect of a telegraphic line, include the substitution of any new line or portion of a line, either in the same place or in some other place, also any removal of or other dealing with any telegraphic line or any part of such line.

**Provision
as to work
done in
pursuance
of special
Acts of
Parliament
which
involves
alteration
in tele-
graphic
line.**

7. Where any work proposed to be done in the execution of an undertaking authorised by an Act of Parliament involves or is likely to involve an alteration either temporarily or permanently in any telegraphic line of the Postmaster-General, and provision is not otherwise made by enactment, agreement, or otherwise with respect to such alteration or to giving notice to the Postmaster-General thereof or to the expenses of or incidental thereto, the following enactments shall apply:

- (1.) The undertakers or their agents shall give to the Postmaster-General not less than seven nor more than fourteen days previous notice of the time and place at which the work will be begun and the nature of the alteration required:
- (2.) Before the expiration of seven days after the notice is given the Postmaster-General may give the undertakers or their agents a counter-notice either stating his intention himself to make, or requiring the undertakers to make under the supervision and to the satisfaction of himself or his agents, such alteration in the telegraphic line as he deems necessary or expedient to be made in consequence of the proposed work:
- (3.) If the Postmaster-General by his counter-notice states that it is his intention himself to make such alteration, it shall be lawful for such Postmaster-General by himself or his agents to make the same, and the undertakers or their agents shall pay to the Postmaster-General all the expenses incurred by him

of and incidental thereto, and the amount of any loss or damage sustained by him in consequence thereof:

- (4.) If the Postmaster-General by his counter-notice requires the undertakers or their agents to make such alteration, the undertakers or their agents shall, at their own expense, make the same under the supervision and to the reasonable satisfaction of the Postmaster-General or his agents, and the said undertakers shall pay to the Postmaster-General all the expenses incurred by him of and incidental to such supervision, also the amount of any loss or damage sustained by him in consequence of the alteration:
- (5.) If the Postmaster-General fails to give a counter-notice, or if having undertaken himself to make the alteration he or his agents should fail to make within a reasonable time the alteration, the undertakers or their agents may themselves make the alteration to the reasonable satisfaction of the Postmaster-General or his agents:
- (6.) If any undertakers or their agents fail to serve on the Postmaster-General such notice as is required by this section with respect to any work, or begin to do the work specified in a notice served under this section before the expiration of seven days after the notice is given, they shall be liable to pay a fine not exceeding ten pounds for every day during which they continue such work without the sanction in writing of the Postmaster-General, and the Postmaster-General may at the expense of the undertakers remove such work:
- (7.) If any undertakers or their agents fail to comply with the reasonable requirements of the Postmaster-General or his agents under this section, they shall be liable to a fine not exceeding ten pounds for every day during which such failure continues, or if the telegraphic communication is interrupted, not exceeding fifty pounds for every day on which such interruption continues:
- (8.) Provided that nothing in this section shall subject any undertakers or their agents to a fine for omitt-

ing to comply with any requirements of the Postmaster-General or his agents, or for executing without previous notice any work if they satisfy the Court having cognizance of the case that any such requirement was unreasonable or that the immediate execution of the work was required to avoid an accident, or otherwise was a work of emergency, and that they forthwith served on the postmaster or sub-postmaster of the postal telegraph office nearest to the place where the work was done a notice of the execution thereof, stating the reason for executing the same without previous notice:

And where under section eight of the Telegraph Act, 1863, any body to or by whom any such pipe as in that section mentioned (a) belongs or is used require that the position of any telegraphic line of the Postmaster-General or any part thereof should be altered, the enactments of the present section shall apply, and for such purposes any such body shall be deemed to be "undertakers."

(a) Pipes for the supply of water or gas.

Compensation and fine for injury to telegraphic line of the Postmaster General and for interruption to telegraphic communication.

8. Where any undertakers, body, or person, by themselves or by their agents, destroy or injure any telegraphic line of the Postmaster-General, such undertakers, body, or person shall not only be liable to pay to the Postmaster-General such expenses (if any) as he may incur in making good the said destruction or injury, but also, if the telegraphic communication is carelessly or wilfully interrupted, shall be liable to a fine not exceeding twenty pounds per day for every day during which such interruption continues.

Where the undertakers, body, or person liable to pay such daily fine as aforesaid to the Postmaster-General are not authorised to execute such works as may be required for remedying the interruption, the interruption shall be deemed to continue either for the time during which it actually continues or for such less time as in the opinion of the Court having cognizance of the case would have been sufficient for remedying the interruption by the Postmaster-General.

The Postmaster-General may, instead of taking proceedings for the recovery of such daily fine as aforesaid, proceed for

the recovery of a fine not exceeding fifty pounds, to which the undertakers, body, or person shall be liable on summary conviction.

An act done to a telegraphic line in the course of work undertaken by any undertakers, body, or person in the legal exercise of a right shall not be deemed to be wilful destruction of or injury to such telegraphic line, if due notice of the intended exercise of such right has been given to the Postmaster-General, that is to say, the notice required to be given in pursuance of any Act of Parliament or agreement, or where there is no Act of Parliament or agreement requiring such notice, fourteen clear days' notice.

This section shall be deemed to be in addition to and not in derogation of any other power or means which the Postmaster-General may have of recovering damages in respect of any such destruction or injury as in this section mentioned under any other Act of Parliament or at common law or otherwise, provided that he shall not proceed under this Act and under any other Act or law in respect of the same destruction or injury.

9. Where any undertakers, body, or person or their agents obstruct the Postmaster-General or his agents in placing, maintaining, altering, examining, or repairing any telegraphic line in pursuance of this Act, or of any consent given in pursuance of this Act, or in supervising or directing any alteration in any telegraphic line made by any undertakers or their agents in pursuance of this Act, such undertakers, bodies, or persons and agents respectively shall for every act of obstruction be liable to a fine not exceeding ten pounds, or in case such obstruction continues, ten pounds for every day during which the same continues.

Penalty for
obstruk-
tion.

10. All fines and penalties under any of the Telegraph Acts may be recovered by the Postmaster-General in manner provided by the Summary Jurisdiction Acts before a Court of summary jurisdiction, and for the purposes of this Act—

Prosecution
of offences.

(1.) The expression "Summary Jurisdiction Acts" means—

as respects England, the Act of the session of the eleventh and twelfth years of the reign of Her present Majesty, chapter forty-three, intituled "An Act to facilitate the performance of the duties of justices of the peace

27 & 28
Vict. c. 53.

14 & 15
Vict. c. 93.

out of sessions within England and Wales with respect to summary convictions and orders," and any Act passed or to be passed amending the same (a); and as respects Scotland, the Summary Procedure Act, 1864, and any Act passed or to be passed amending the same; and

as respects Ireland, within the police district of Dublin metropolis, the Acts regulating the powers and duties of justices of the peace for such district, or of the police of that district, and elsewhere in Ireland the Petty Sessions (Ireland) Act, 1851, and any Act passed or to be passed amending the said Acts, or any of them; and

(2.) The expression "Court of summary jurisdiction" means—

as respects England, any justice of the peace or other magistrate or officer to whom jurisdiction is given by the Summary Jurisdiction Acts, so, however, that any case arising under any of the Telegraph Acts shall be heard and determined either by two or more justices of the peace in petty sessions sitting at a court or other place appointed for holding petty sessions, or by some magistrate or officer sitting alone or with others at some court or other place appointed for the administration of justice, and for the time being empowered by law to do alone any act authorised to be done by more than one justice of the peace; and

as respects Scotland, means any sheriff or sheriff substitute; and

as respects Ireland, means any justice or justices or other magistrate, by whatever name called, having jurisdiction under the Summary Jurisdiction Acts.

All fines and penalties recovered in pursuance of any of the Telegraph Acts shall be paid into the Exchequer (a).

(a) The expression "Summary Jurisdiction Acts" includes the Summary Jurisdiction Act, 1879 (42 & 43 Vict. c. 49), as the 11 & 12 Vict. c. 43 is thereby amended.

Revision
as to Post-
master
General.

11. In the Telegraph Acts the expression "Postmaster-General" means Her Majesty's Postmaster-General for the time being.

Any legal proceeding may be instituted by the Postmaster-General for any of the purposes of any of the Telegraph Acts in the name of Her Majesty's Postmaster-General for the time being, and shall not abate or be discontinued by reason of any change in the person who is Postmaster-General, but may be carried on as if Her Majesty's Postmaster-General for the time being were a body corporate; and where any sum is due or payable to the Postmaster-General under any of the Telegraph Acts, or any contract, agreement, or regulation made in pursuance or for any of the purposes of those Acts or any of them, the Postmaster-General may recover the same as a debt in any Court and in any manner in which it might be recovered if it were a debt due to a private person.

12. A notice under this Act may be in writing or print, or partly in writing and partly in print.

Any notice, appointment, direction, or document given, issued, or made for the purposes of this Act by the Postmaster-General shall be sufficiently authenticated if purporting to be signed by a secretary or assistant secretary of the Post Office, or by a superintending engineer of the Postmaster-General, or by an officer appointed for the purpose by the Postmaster-General, and when so authenticated shall be deemed to be given, issued, or made by the Postmaster-General.

Printing,
authenti-
cation, and
service of
notices and
other docu-
ments.

Where a notice is given by any undertakers, body, or person, the notice shall be sufficiently authenticated if purporting to be signed by the chairman, secretary, clerk, or other officer of such undertakers, body, or person.

A notice required to be given under this Act to the Postmaster-General may be given by leaving the same at or by forwarding the same by post to the General Post Office in a letter addressed to the Postmaster-General or to the Secretary of the Post Office, or to an assistant secretary of the Post Office, or by delivering the same to or forwarding the same by post in a letter addressed to the superintending engineer of the Postmaster-General for the district in which is the work, telegraphic line, or other matter referred to in the notice and addressed to him at his office or usual place of abode.

A notice required to be given under this Act to any undertakers or body may be given by leaving the same at or by

forwarding the same by post to the office, or where there is more than one office the principal office of such undertakers or body in a letter addressed to such undertakers or body, or to their chairman, secretary, clerk, or other officer.

A notice required to be given under this Act to any person may be given by delivering the same to such person or by leaving the same at or forwarding the same by post in a letter addressed to such person at his usual or last known place of abode.

Where a notice is forwarded by post it shall be deemed to have been given at the time when the letter containing the same would be delivered in the ordinary course of post, and in proving the giving thereof it shall be sufficient to prove that the same was properly addressed and put into the post.

The expression "notice" in this section shall be deemed to include a counter-notice.

RULES MADE BY THE BOARD OF TRADE WITH RESPECT TO APPLICATIONS FOR LICENSES AND PROVISIONAL ORDERS, &c.

Rule I.—No application for a license or for the renewal of a license can be entertained unless proof of the consent of the local authority to such application is given to the Board of Trade.

Rule II.—When applications for provisional orders authorising the supply of electricity within the district of any local authority are received by the Board of Trade from such local authority, and also from any other authority, company, or person, the Board of Trade will give a preference to the application of the local authority of the district in every case where, in the opinion of the Board of Trade, no special circumstances exist which render such a preference inexpedient.

Application and Deposit.

Rule III.—Every application for a license or provisional order must be made by memorial signed by, or on behalf of, the applicants, headed with a short title descriptive of the proposed undertaking (corresponding with that at the head of the advertisement hereinafter mentioned) addressed to the Board of Trade, and praying for a license or provisional order. With the memorial must be deposited six copies of the license or order, as proposed by the applicants, with the schedule or schedules (if any) referred to therein.

Rule IV.—The deposited copies of the proposed license or order must be in print. They must be printed on one side only of the page of paper, so as to leave the back of the page blank, and each schedule annexed must begin a new page.

The names and addresses of the parliamentary agents or solicitors for the license or order must be printed on the outside of the draft.

There must be a notice at the end of the draft, stating that objections are to be made by letter addressed to the Board of Trade, marked on the outside of the cover enclosing

it "Electric Lighting Act," and that this latter is to be sent to the Board of Trade within two months from the date of the newspaper containing the first advertisement of the application.

The draft must contain amongst other things—

1. Address and description of the applicants.
2. A description of the proposed area of supply.
3. A statement of the purposes for which a supply is to be given, viz., any or all of the public or private purposes specified in section *three* of the Act.
4. A general description of the proposed works.
5. Provisions concerning the breaking up of streets not repairable by a local authority and concerning interference with railways and tramways, where powers are sought to be obtained by the license or order for those purposes.
6. Conditions of supply, including price, nature and amount of supply, obligation to supply, &c.
7. Period for which concession is sought.
8. Provisions for securing the safety of the consumer and of the public from injury by shock, fire, or otherwise.
9. Provisions for enforcing the performance by the undertakers of their duties in relation to the supply of electricity and for the revocation of the license or order where the undertakers fail to perform such duties.

The applicants are also to deposit a sufficient number of such printed drafts at offices in London and within the proposed area of supply to be specified in the advertisement, such copies to be there furnished to all persons applying for them, at a price of not more than one shilling each.

Rule V.—There must also be deposited with the memorial,—

A published map of the district on a scale of not less than one inch to a mile, or if there is no published map, then the best map procurable shewing the boundaries of the proposed area of supply, the lands which the applicants propose to take for the purposes of the license or order, and the streets and other places in, over, or along which it is proposed to place any electric lines or other works.

A copy of the said map is also to be deposited for public inspection—

In England or Ireland, in the office of the clerk of the peace for every county, riding, or division, and of the local authority of every district.

In Scotland in the office of the principal sheriff clerk, for every county, district, or division, and of the local authority of every district in the which the proposed area of supply or any part thereof is situate.

Rule VI.—There must also be deposited with the memorial,—

1. A list of the local authorities in whose districts the area of supply is situate.

2. A list of the streets not repairable by a local authority and of the railways and tramways (if any) which the applicants propose to take powers to break up.

3. A list of the canals and navigable rivers (if any) which the undertakers will be empowered under the license or order to cross.

4. A statement of the capital proposed to be expended and employed in connection with the undertaking, and the mode in which such capital is to be provided.

5. If the applicants are a company incorporated under the provisions of the Companies' Acts, a copy of the memorandum and articles of association.

6. A fee of 50*l.* by cheque payable to an "Assistant Secretary of the Board of Trade" to cover ordinary expenses. If in consequence of inquiries or otherwise additional expense is incurred, the amount will be charged to the applicants and must be paid by them in addition in the ordinary fee.

7. Where the undertakers under any license, order, or special Act desire the consent of the Board of Trade to enable them to break up any street not repairable by a local authority or any railway or tramway which they are not empowered to break up under such license, order, or special Act, the memorial must especially request such consent and must describe accurately the street, railway, or tramway which they propose to acquire power to break up.

Rule—VII. Where the approval or consent of any local authority is required to any application for a license or order, such approval or consent must be given by a resolu-

tion passed at a special meeting of the local authority held after one month's previous notice of the same, and of the purpose thereof, has been given in the manner in which notices of meetings of such local authority are usually given, and the fact that such a resolution was duly passed must be proved by furnishing a certificate signed by the secretary or clerk to such local authority embodying copies of the notice and of the resolution, and certifying that the notice was duly given and the resolution duly passed.

Rule VIII.—In any case where a local authority, company, or person is required by the Act to give notice to the local authority of the district, "in such manner as the Board of Trade may direct or approve," such notice shall be given in writing, and shall be served, either by leaving the same at the offices of the said local authority on or before the appointed day or by forwarding the same by post in a registered letter so that the same would in ordinary course of post be delivered on or before the appointed day.

Procedure where Application is entertained.

Rule IX.—If the application is entertained by the Board of Trade, the applicants must proceed as follows:—

They shall publish notice by advertisement that such application has been made.

Every advertisement shall contain the following particulars:—

1. The objects of the application.
2. Address and description of applicants.
3. A general description of the nature of the proposed works.
4. A description of the proposed area of supply.
5. The names of the streets and other places in, over, or along which it is proposed to place any electric lines or other works.
6. A list of the streets not repairable by a local authority and of the railways and tramways (if any) which the applicants propose to take powers by the license or order to break up.
7. A list of the canals and navigable rivers which the undertakers will be empowered under the license or order to cross.

8. An office in London, and another office within the proposed area of supply, at which printed copies of the draft license or order when applied for, and of the license or order when made, can be obtained at a price of not more than one shilling each.

The advertisement is to be headed with a short title, descriptive of the undertaking (corresponding with that at the head of the memorial), and it must state that every local or other public authority, company, or person desirous of making any representation to the Board of Trade, or of bringing before them any objection respecting the application, may do so by letter addressed to the Board of Trade, marked on the outside of the cover enclosing it "Electric Lighting Act," within two months from the date of the newspaper containing the first advertisement.

The advertisement is to be inserted, once at least in each of two successive weeks in one and the same newspaper, published and circulating in the proposed area of supply, or in such other newspaper as the Board of Trade may direct; and once at least in the London, Edinburgh, or Dublin Gazette, accordingly as the proposed area of supply is situate in England, Scotland, or Ireland.

Rule X.—In all cases of applications for a license, renewal of license, or provisional order, to which objection is made by any person locally interested, the Board of Trade will, if either the applicants or the objectors so desire, hold a local inquiry of which due notice will be given.

Rule XI.—If any local or other public authority, company, or person, desires to have any clauses or other amendments inserted in the license or order, they must deliver the same to the parliamentary agents or solicitors for the order, and also to the Board of Trade on or before the time limited for bringing objections.

Rule XII.—When a license or provisional order is ready, and before the same is delivered, the applicants must deposit at the office of the Board of Trade a description of the lands (if any) which they propose to purchase for the purposes of the license or provisional order, and must produce to the Board of Trade the contracts for the purchase of all such lands.

Rule XIII.—When a license or provisional order has been

made by the Board of Trade and delivered to the applicants, they shall forthwith deposit printed copies for public inspection in the offices specified in Rule V., and shall supply copies to all persons applying for the same, and shall further publish the same as the Board of Trade may direct.

Special Provisions as to Provisional Orders.

Rule XIV.—In the case of provisional orders the following additional regulations must be observed.

1. The advertisements must be inserted in *October* or *November*.
2. A copy of the advertisement and map must be deposited *on or before the 30th November* in the offices specified in Rule V., and at the Board of Trade.
3. The Memorial must be lodged on or before the *21st December*.
4. The parliamentary agents or solicitors for the order must be prepared to prove compliance with the provisions of the Act and these rules by the 25th January, and all such proofs must be completed on or before the 25th February. Six days' notice will be given of the day and hour at which such agents or solicitors are to attend for the purpose at the Board of Trade, and printed forms of proof will accompany the notice. These forms should be filled up and brought with the requisite documents to the Board of Trade at the time fixed for receiving proof.

THE BOARD OF TRADE,
August, 1882.

T. H. FARRER,
Secretary.

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